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Transcript of Marvin Scothorn

Date: December 19, 2018

Case: Gillispie -v- City of Miami Township, et al.

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1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF OHIO

3 WESTERN DIVISION

4
5 _____
6 ROGER DEAN GILLISPIE, :

7 Plaintiff :

8 -vs- : CASE NO. 3:13-CV-416

9 CITY OF MIAMI TOWNSHIP, :

10 ET AL., :

11 Defendants :
12 _____

13 Deposition of MARVIN SCOTHORN, a
14 Defendant herein, taken by the Plaintiff as upon
15 cross-examination and pursuant to the Ohio Rules of
16 Civil Procedure as to the time and place and
17 stipulations hereinafter set forth, at the offices
18 of Surdyk, Dowd & Turner, 8163 Old Yankee Street,
19 Suite C, Dayton, Ohio at 10:09 a.m., on December
20 19, 2018, before Jamie S. Hurley, Court Reporter
21 and Notary Public within and for the State of Ohio.
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INFORMATION REQUESTED

NOT APPLICABLE

* * * * *

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1 WHEREUPON:

2 MARVIN SCOTHORN,
3 of lawful age, a Defendant herein, being first duly
4 sworn as hereinafter certified, testified as
5 follows:

6 CROSS-EXAMINATION

7 BY MR. SHUKUR:

8 Q. Good morning.

9 A. Good morning.

10 Q. Please state your name for the record.

11 A. Marvin Scothorn.

12 Q. And how do you spell that?

13 A. S-C-O-T-H-O-R-N.

14 Q. Okay. All right. Mr. Scothorn, before
15 we have our conversation I will just layout some
16 ground rules for our conversation, all right?

17 A. Okay.

18 Q. And if you will just tell me, you know,
19 if you understand the ground rule after I say it;
20 does that sound all right?

21 A. That sounds good.

22 Q. All right. Now, everything you say
23 will be recorded by our great court reporter here
24 today. Unfortunately, as talented she is, she
25 can't record nonverbal movements where we usually

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1 just nod or we might say uh-huh or something like
2 that, I would like to have an affirmative or just a
3 verbal answer to all of my questions; do you
4 understand?

5 A. I do understand.

6 Q. All right. I will ask you a series of
7 questions, none of which will be objectionable, but
8 I imagine there may be some objections. If an
9 objection is put forth, please still answer the
10 question unless instructed not to do so by your
11 counsel.

12 A. I understand.

13 Q. Now, this should just be common
14 courtesy, but sometimes, you know, we all waiver on
15 that front, so, you know, I'm going to try not to
16 object or, not to object, but not to interrupt you
17 when you're giving an answer. And I ask that you
18 show me the same respect and not interrupt me when
19 I'm asking a question in part because the, our
20 conversation would be recorded, and we want to make
21 sure that any answer that you're giving to my
22 question is clear in terms of what question you're
23 answering.

24 And we want the question that I am
25 putting forth to be clear as well before you give

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1 your answer, so it's for the common courtesy
2 purposes and clarity purposes, but we're not going
3 to interrupt each other; is that all right?

4 A. I understand.

5 Q. All right. And, also, this is not an
6 endurance contest. So if ever you need to take a
7 break to use the restroom or just do some breathing
8 exercises, you're more than welcome to take a break
9 provided that you, if I put forth a question or I
10 ask a question before you ask for a break, I'll ask
11 that you answer the question, and then we'll break;
12 do you understand?

13 A. I understand.

14 Q. Okay. If you don't understand any of
15 the questions I ask, just let me know. I will
16 clarify the question to the best of my ability, and
17 you should feel free to ask for a clarification; do
18 you understand?

19 A. I understand.

20 Q. If you do answer a question, a series
21 of questions that I ask, I will assume that you
22 both understand the question and that you are
23 answering the question to the best of your ability
24 and that you're giving a complete answer to the
25 question; do you understand?

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1 A. I understand.

2 Q. Now, are you on any medications today
3 that will affect your ability to give your
4 deposition?

5 A. No.

6 Q. Okay. So, Mr. Scothorn, what did you
7 do in preparation for your deposition here today?

8 A. I had a meeting with, with my attorney
9 and we discussed documents that --

10 MS. JEWELL: Objection. Don't
11 tell him anything that was discussed, just the
12 meeting is fine.

13 BY MR. SHUKUR:

14 Q. And that's another thing. At no point
15 do I want to hear anything that you've told your
16 attorney or anything that your attorney has told
17 you at any point during this conversation, all
18 right?

19 A. I understand.

20 Q. All right. So you met with your
21 attorney. When did you meet with your attorney?

22 A. This morning.

23 Q. Okay. And is that the only meeting you
24 had with your attorney in preparation for your
25 deposition today?

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1 A. Face-to-face.

2 Q. All right. Did you have any meetings
3 via telephone?

4 A. Yes.

5 Q. All right. How many?

6 A. One with this attorney.

7 Q. Okay. Any meetings with any other
8 attorneys?

9 A. Yes.

10 Q. From the same law office?

11 A. Yes.

12 Q. Okay. And how many meetings with the
13 other attorneys?

14 A. One face-to-face and several
15 telephones.

16 MS. JEWELL: I just want to make
17 sure that the record's clear. Those meetings with
18 Attorney Kasson were not in preparation of this
19 deposition. It was just for other purposes.

20 BY MR. SHUKUR:

21 Q. All right. Now, during your telephone
22 meetings with the other attorneys, I take it the
23 other attorney was Mr. Kasson?

24 A. Yes.

25 Q. All right. Were there any other people

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1 on the calls besides you and Mr. Kasson during your
2 telephone conversations with Mr. Kasson?

3 A. Not that I'm aware of.

4 Q. Okay. And during your in-person
5 meeting with your attorney in preparation for your
6 deposition, was there anybody else present during
7 that meeting?

8 A. You mean today?

9 Q. Yes.

10 A. No.

11 Q. Okay. How long was your meeting with
12 your attorney today?

13 A. About an hour and a half.

14 Q. All right. Did you review any
15 documents --

16 MS. JEWELL: Objection.

17 BY MR. SHUKUR:

18 Q. -- during this meeting?

19 A. No.

20 Q. Did you review any documents in
21 preparation for your deposition today, period?

22 A. Yes.

23 Q. All right, what documents did you
24 review?

25 A. I reviewed documents that were sent to

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1 me by my attorney.

2 Q. All right. Aside from any documents
3 specifically prepared or authored by your
4 attorneys, were there any other documents that you
5 reviewed?

6 A. Yes.

7 Q. All right. What were they?

8 (WHEREUPON, Mr. Deters exited the
9 room.)

10 THE WITNESS: I, over the last few
11 years, received a lot of correspondence.

12 MS. JEWELL: We're not going to
13 get into that. I think he's confused with your
14 question. Would you ask it a different way?

15 BY MR. SHUKUR:

16 Q. Okay. So I don't want to know about
17 any e-mails from any of your attorneys, any reports
18 from any of your attorneys. What I'm asking for,
19 for example, would be any reports from any law
20 enforcement agency, any third-party reports, any
21 reports authored by yourself or documents authored
22 by yourself, stuff like that?

23 A. No.

24 Q. Okay. So you didn't review any
25 documents from Miami Township Police Department in

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1 preparation for your deposition today?

2 A. No.

3 Q. All right. Now, you understand that
4 we're here today because a lawsuit has been filed,
5 and you were named as one of the defendants, right?

6 A. Yes.

7 Q. And you understand that this lawsuit
8 arises from the Miami Township Police Department's
9 investigation of Dean Gillispie for rape, right?

10 A. Yes.

11 Q. All right. Now, do you have any sort
12 of memory, any independent memory of any other
13 events that took place as a part of that
14 investigation?

15 A. No.

16 Q. Okay. Do you have any independent
17 memory of this investigation that occurred, you
18 know, around 1988 through 1991?

19 A. I wasn't involved in the original
20 investigation, so I have no knowledge of what
21 transpired.

22 Q. Do you know Dean Gillispie?

23 A. I do not.

24 Q. All right. To your knowledge, have you
25 ever known Dean Gillispie?

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1 A. Not to my knowledge.

2 Q. All right. Have you ever known of Dean
3 Gillispie?

4 A. I've read a lot about him in the last
5 few years, but that's pretty much the extent of it.

6 Q. All right. And by last, so that's the
7 last few years so from 2015 to today you've read a
8 lot about him?

9 A. I've read through the documents that
10 I've received.

11 Q. Since the filing of this lawsuit or you
12 mean before the filing of the lawsuit?

13 A. Since the filing of the lawsuit.

14 Q. All right. So before this lawsuit was
15 filed, did you have any sort of knowledge of Dean
16 Gillispie?

17 A. No.

18 Q. Do you have any position either way
19 regarding whether Dean Gillispie raped Bonnie Wise?

20 MS. JEWELL: Objection. Go ahead
21 and answer.

22 THE WITNESS: I have no
23 information about the case, so I couldn't make a
24 judgment.

25 BY MR. SHUKUR:

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1 Q. And by couldn't make a judgment, do you
2 mean you don't have a position in terms of whether
3 he did or didn't rape Bonnie Wise?

4 A. I do not.

5 Q. Okay. Do you have any position
6 regarding whether Dean Gillispie raped Connie Wise?

7 A. No. The same answer, I do not have any
8 information on that. I do not know who Connie Wise
9 is.

10 Q. All right. And is it the same with
11 Sandra Carpenter, Sandra Clark, sorry, is it the
12 same with Sandra Clark, you don't have a position
13 either way as to whether Dean Gillispie raped
14 Sandra Clark?

15 A. Same answer, I don't know. I don't
16 have that information.

17 Q. And do you not have any position either
18 way regarding whether Dean Gillispie committed any
19 crime relating to the rapes of these women?

20 A. I do not have any information about
21 that, no.

22 Q. All right. All right. Mr. Scothorn,
23 where did you grow up?

24 A. West Carrollton, right here, right here
25 in West Carrollton.

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1 Q. Where did you graduate from high --

2 A. West Carrollton High School.

3 Q. And, see, that's a good example. So --

4 A. I'm sorry. I interrupted you.

5 Q. Now, on the transcript it's going to
6 show up as, where did you, West Carrollton High
7 School, graduated. So let's try to do better with
8 that. So I know it's not intuitive, but we're
9 going to do our best, right?

10 A. Yes, we are.

11 Q. So you graduated from West Carrollton
12 High School in what year?

13 A. 1970.

14 (WHEREUPON, Mr. Deters entered the
15 room.)

16 BY MR. SHUKUR:

17 Q. And what did you do after you graduated
18 from West Carrollton High School in terms of
19 furthering your education or employment?

20 A. I took some classes at Sinclair
21 Community College and some classes at Wright State.
22 I did not graduate.

23 Q. Did you work?

24 A. I did.

25 Q. All right. Where did you work?

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1 A. Initially after high school I worked
2 for Montgomery County Water Department.

3 Q. How long were you there?

4 A. Eleven years.

5 Q. Is that until about '81?

6 A. Yes.

7 Q. Okay. Where did you work after the
8 Montgomery County Water Department?

9 A. Miami Township Police Department.

10 Q. You began working at Miami Township
11 Police Department in 1981 or '82?

12 A. Neither.

13 Q. Neither? When did you begin working at
14 the Miami Township Police Department?

15 A. I started with Miami Township as a
16 police cadet in 1969.

17 Q. Okay. What were your responsibilities
18 as a police cadet?

19 A. I helped out with parades. I was
20 security details for crowd control. They had some
21 carnivals that they needed someone to walk around
22 with for security. I did those type of things,
23 traffic control when they had bad accidents, those
24 type of things.

25 Q. How long were you a police cadet for?

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1 A. I was a police cadet until I turned 21,
2 so that would have been 1973.

3 Q. What was your next position with the
4 Miami Township Police Department?

5 A. I became a patrol officer for Miami
6 Township.

7 Q. What were your responsibilities as a
8 patrol officer?

9 A. I was, I drove a police cruiser and
10 patrolled neighborhoods, took accident reports,
11 investigated crimes.

12 Q. And in 1973 when you became a patrol
13 officer, that was in a part-time capacity?

14 A. Actually it was in a volunteer
15 capacity.

16 Q. All right. About how many, well, sort
17 of what was your schedule like through your
18 volunteer patrol officer days?

19 A. I was assigned one day a week that I
20 would come in and work an eight-hour shift.

21 Q. All right. How long were you a patrol
22 officer at the Miami Township Police Department
23 for?

24 A. How long was I an axillary patrol
25 officer?

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1 Q. Yes.

2 A. Okay. About a year and a half.

3 Q. So 1973 you began as an, you started
4 your position as an axillary patrol officer?

5 A. Yes.

6 Q. All right.

7 A. A volunteer.

8 Q. All right. And then you ended serving
9 as a, your time as an axillary patrol officer ended
10 in 1975?

11 A. '74.

12 Q. '74. What was your next position at
13 the Miami Township?

14 A. I became a part-time patrol officer.

15 Q. In 1974?

16 A. Yes.

17 Q. All right. Did your duties as a
18 part-time patrol officer differ at all from your
19 duties as an axillary patrol officer?

20 A. Yes.

21 Q. How so?

22 A. I was working, scheduled three days a
23 week as opposed to one day, and I was paid a
24 salary.

25 Q. How long were you a part-time patrol

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1 officer for?

2 A. Until '78.

3 Q. What was your next position at the
4 Miami Township Police Department?

5 A. I became a part-time sergeant.

6 Q. What were your duties as a part-time
7 sergeant?

8 A. To be the shift supervisor of whatever
9 shift I was working.

10 Q. I'm sorry. You started your position
11 as a part-time sergeant in --

12 A. '78.

13 Q. '78, okay. All right. What were the
14 responsibilities for, what were your
15 responsibilities as shift supervisor?

16 A. I was there to assist if other patrol
17 officers needed assistance. I was a backup for
18 other patrol officers that went on calls that could
19 potentially be dangerous. Other than that, my
20 duties were pretty much the same as a regular
21 patrol officer.

22 Q. All right. A shift supervisor in
23 addition to doing accident reports, investigating
24 crimes, and carrying out regular patrol officer
25 duties, your only other responsibilities were to

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1 assist patrol officers when needed and serve as
2 backup to patrol officers where needed; is that
3 correct?

4 A. Yes.

5 Q. All right. How long were you a
6 part-time sergeant for?

7 A. Until 1981.

8 Q. What was your next position?

9 A. I was a full-time sergeant.

10 Q. What were your responsibilities as a
11 full-time sergeant?

12 A. The same as the part-time sergeant,
13 only I was doing it five days a week.

14 Q. How long were you a full-time sergeant
15 for?

16 A. Until 1987.

17 Q. What was your next position at the
18 Miami Township Police Department?

19 A. Lieutenant.

20 Q. Were you, were you the lieutenant of a
21 particular division, a section, or just lieutenant?

22 A. I was, I was one of two lieutenants,
23 and I was, I oversaw the records section and the
24 dispatch area and the dispatchers.

25 Q. What was the other lieutenant's realm

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1 of authority or responsibility?

2 A. He was in charge of the patrol section
3 and the detective section.

4 Q. Okay. What was the other lieutenant's
5 name in '87?

6 A. At the time it was Tom Angel.

7 Q. How long were you, oh, sorry. And you
8 said that you, your realm of responsibility or the
9 scope of your responsibility covered records and
10 dispatch. What exactly were your responsibilities
11 relating to records in dispatch?

12 A. I worked with the computer guy that we
13 had to help set up some, you know, some
14 computerized record keeping. They had, I think,
15 four employees in the records section that, and
16 then one supervisor who was a civilian, well, all
17 of those people were civilians. And I just oversaw
18 them, and I was a liaison between them and the rest
19 of the department and the same for the dispatch.

20 Q. You're the liaison between the staff
21 members of records and dispatch in the department?

22 A. Yes.

23 Q. All right. And by department do you
24 mean leadership?

25 A. Yes.

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1 Q. Okay. And who all was in the
2 leadership or what were the titles of the --

3 A. At that stage there was, there was
4 myself as lieutenant. Tom Angel was lieutenant,
5 and James Moore was a police chief.

6 Q. All right. So the chain of command had
7 the police chief at the top followed by two
8 lieutenants; is that correct?

9 A. That is correct.

10 Q. All right. And then with the next step
11 in the chain of command would be patrol officers?

12 A. There were five patrol sergeants.

13 Q. Patrol sergeants. All right. Sorry.

14 A. Correction, there were four patrol
15 sergeants and one detective sergeant.

16 Q. And one detective sergeant. All right.
17 And those sergeants were under Angel in '87?

18 A. That is correct.

19 Q. Did you have any sergeants under you in
20 the chain of command?

21 A. No.

22 Q. The people under you in the chain of
23 command were the staff members of the records and
24 dispatch departments or section?

25 A. Yes.

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1 Q. All right. Did you call it a records
2 department or division or section?

3 A. We called it a director's department.

4 Q. Department, okay. As lieutenant of
5 records, you have established the computerized
6 recordkeeping of the Miami Township Police
7 Department at the time; is that correct?

8 A. I assisted in creating them, yes.

9 Q. All right. And how did you assist in
10 creating a computerized recordkeeping?

11 A. We had hired a consultant to come in
12 and help us set up how it was going to function.
13 And I basically sat with him and explained to him
14 what we needed and how we needed it to be kept.

15 Q. What did you tell the consultant you
16 needed in terms of a computerized recordkeeping
17 system?

18 A. I really don't recall the conversations
19 I had with him.

20 Q. Do you remember any of your priorities
21 in terms of records keeping, computerized records
22 keeping system at the time?

23 A. We just needed something that the
24 officers could come in and type in their
25 information into the report. And we tried to make

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1 it as similar to the existing hardcopy of reports
2 that we had at the time.

3 Q. Were you pretty knowledgeable about the
4 computerized records keeping system at the time in
5 '87?

6 A. No, sir.

7 Q. Did you know how the computerized
8 recordkeeping system sort of functioned or operated
9 at the time in '87?

10 A. No.

11 Q. All right. Did you come to become
12 familiar with how the computerized recordkeeping
13 system operated?

14 A. Overtime I learned a lot about the
15 computers, but I, even today, I wouldn't consider
16 myself knowledgeable about computers.

17 Q. How long were you the lieutenant of
18 records in dispatch for?

19 A. Until 1990.

20 Q. What was your next position at the
21 police department?

22 A. Captain.

23 Q. Before 1990 did the position of, sorry,
24 is the captain the same as the police chief?

25 A. No.

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1 Q. Okay. Before 1990, did the position of
2 captain exist?

3 A. No.

4 Q. Okay. What were your responsibilities
5 as captain?

6 A. I had the same responsibilities except
7 now I was, the lieutenant now reported to me as
8 opposed to the directly to the chief.

9 Q. All right. When you became captain in
10 1990, did the department eliminate the position of
11 lieutenant for records in dispatch? Were they
12 still two lieutenants?

13 A. No. There was only one lieutenant. I
14 still retained the same duties. I just, the
15 lieutenant reported directly to me.

16 Q. All right. When you became captain in
17 1990, who was the lieutenant?

18 A. Gary Williams.

19 Q. All right. At this time did
20 Mr. Williams still have four patrol sergeants and
21 one detective sergeant under him?

22 A. Yes.

23 Q. Who is the detective sergeant in 1990?

24 A. Steve Fritz.

25 Q. Why did they create the position of

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1 captain in 1990?

2 MS. JEWELL: Objection. Only
3 answer if you know.

4 THE WITNESS: I wasn't consulted.
5 They just offered me the position.

6 BY MR. SHUKUR:

7 Q. Do you have any or did you have, at the
8 time have any sort of inclination as to why they
9 created the position?

10 MS. JEWELL: Objection, same
11 objection. You already answered this.

12 THE WITNESS: Do you want me to
13 speculate?

14 BY MR. SHUKUR:

15 Q. I don't want you to speculate. I just
16 want to know if you had any inclination as to why
17 they created the position?

18 A. I --

19 MS. JEWELL: No, don't guess or
20 speculate.

21 MR. SHUKUR: Is that an objection?
22 That's not an objection.

23 MS. JEWELL: I didn't want him to
24 speculate. He's going to answer how he answers.

25 MR. SHUKUR: I understand. I just

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1 want proper objections to be made.

2 MS. JEWELL: It's proper. Go
3 ahead.

4 THE WITNESS: I think it was part
5 of restructuring by the new police chief.

6 MR. SHUKUR: And instructing
7 clients is not proper. Objections are proper.
8 Instructing clients --

9 MS. JEWELL: Well, I don't want
10 him to guess or speculate, and I'm sure you don't
11 either. He already answered.

12 MR. SHUKUR: That's great
13 coaching. I just want you to keep it to
14 objections, if possible. I'll show you the same
15 courtesy.

16 BY MR. SHUKUR:

17 Q. All right. How long were you a
18 lieutenant for, or a captain, I'm sorry?

19 A. A captain, until 1996.

20 Q. If you, well, sorry, do you, what were
21 the responsibilities of detective sergeants?

22 A. He was to oversee the detective section
23 and oversee the investigations that occur.

24 Q. Anything else?

25 A. I wasn't, I wasn't in charge of the

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1 section. I've never been a detective, so I don't
2 know exactly everything that they did.

3 Q. During your time as sergeant you didn't
4 know exactly everything that the detective
5 sergeants did?

6 A. No.

7 Q. Okay. After Steve Fritz who else, or
8 I'm sorry, who was the next detective sergeant
9 after Steve Fritz?

10 A. Tim Wilson.

11 Q. Now, what was your assessment of Steve
12 Fritz' performance as detective sergeant during
13 your time as captain?

14 MS. JEWELL: Can you repeat the
15 question?

16 BY MR. SHUKUR:

17 Q. What was your assessment of Steve
18 Fritz' performance as detective sergeant during
19 your time at the Miami Township Police Department?

20 A. Okay. He did not report to me. And
21 there was some things about Steve Fritz that I did
22 not care for as a person.

23 Q. What did you not care for?

24 A. He wasn't always truthful.

25 Q. Why did you believe Fritz was not

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1 always truthful?

2 A. Because I caught him in lies.

3 Q. What is a lie that you caught Steve
4 Fritz in?

5 A. He was doing an investigation.
6 Something came up about the investigation to me. I
7 don't recall exactly the details, but I asked him
8 about it and asked him if he had a report on it,
9 and he told me that he did. It took him a couple
10 hours to find it, and when he found it, I figured
11 out that he had gone down and written it after I
12 asked for it.

13 Q. Did this in any way hinder or impair
14 the department's ability to carry out their law
15 enforcement functions in regards to the
16 investigation?

17 A. No.

18 Q. What's another lie that you caught
19 Fritz in?

20 A. He was getting something from the
21 property room, and he told me that he had returned
22 it, and he did not. And then I found out later
23 that he did return it, but it was after the fact.

24 Q. Do you know what the piece of the
25 property was?

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1 A. I don't recall.

2 Q. Did this affect the, negatively affect
3 the department's law enforcement functions in
4 regards to that investigation?

5 A. No.

6 Q. What's another lie you caught Fritz in?

7 A. That's all the two that I remember.

8 Q. How would you describe your
9 relationship with Fritz, is it friendly, cordial?

10 A. Today?

11 Q. Yes.

12 A. Oh, I have no relationship with him
13 today. I have not seen him in more than 20 years.

14 Q. How would you describe your
15 relationship with Fritz during your time at the
16 Miami Township Police Department?

17 A. It would have to be hot and cold. Some
18 days it was good. Some days it wasn't.

19 Q. Aside from the two events that we've
20 already discussed, was there any other event that
21 stands out to you regarding your relationship with
22 Fritz and, yeah?

23 A. Can you be more specific?

24 Q. Yeah. Any particularly hostile event
25 that stands out to you during your time at the

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1 Miami Township Police Department involving Fritz?

2 A. There's one that comes to mind.

3 Q. What event is that?

4 A. The involvement he had in my
5 termination from the department.

6 Q. What involvement did he have in your
7 termination from the department?

8 A. Even though he wasn't with the
9 department any longer, he helped organize a group
10 of people to tell stories about me that weren't
11 true.

12 Q. And we'll get into that a little more a
13 little bit later.

14 A. I figured you might.

15 Q. For now, how would you describe him as,
16 Fritz as a sort of detective sergeant in terms of
17 purely his performance?

18 A. He was a very good investigator. He
19 knew the job. He just always wasn't ready to
20 perform it.

21 Q. Okay. What makes you say that he was a
22 good investigator or why do you say he was a good
23 investigator?

24 A. He handled a lot of cases during the
25 time that he and I were there together that he, he

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1 proved cases or he disproved cases or he was able
2 to find things out and, you know, and talk to
3 people and get, you know, confessions. And so he
4 was, he was a good investigator.

5 Q. Why do you say that Fritz knew the job?

6 A. He knew what he was supposed to do. He
7 just didn't always do it.

8 Q. What did Fritz do to indicate that he
9 knew what he was supposed to do?

10 A. He would complete cases that were
11 important to him, but if it was something that he,
12 you know, that he was stumbling with, then he
13 would, he would bury it, and it would not get, it
14 wouldn't go any further until somebody questioned,
15 you know, what happened with this case? And then
16 he would end up with, you know, I've been working
17 on this case, and I've done all this paperwork.
18 And it turned out that he wasn't been working on
19 the case, and he didn't do any paperwork.

20 Q. Now, you said Fritz wasn't always ready
21 to perform. Why do you say Fritz wasn't always
22 ready to perform?

23 A. As I said, he knew his job. He just
24 wasn't always willing to do it.

25 Q. And then so in terms of, did you learn

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1 about Fritz' performance, his willingness to
2 perform his job functions, his knowledge of the job
3 in your capacity as lieutenant or in your capacity
4 as captain or some combination?

5 A. As a combination.

6 Q. All right. So as lieutenant how would
7 you come to be aware of Fritz' performance on the
8 job?

9 A. He was a detective sergeant, so he
10 interacted with, you know, several other agents or
11 other departments in the police department. And
12 sometimes people would come to me, with, you know,
13 disappointments about his performance.

14 Q. Who were these people who came to you
15 about, with disappointments about Fritz'
16 performance?

17 A. I don't remember anyone specific, but
18 it would have been, it would have been someone
19 that, like, in the records section or someone in
20 the detective section, or not the detective
21 section, someone in the dispatch or sometimes
22 patrol officers would come to me about a case that
23 they called him on, and he wasn't performing like
24 they thought he should. And I would send them down
25 the chain of command and tell them to talk with the

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1 lieutenant.

2 Q. How would you become informed about
3 Fritz' performance on the job during your time as
4 captain at the Miami Township Police Department?

5 A. I had an open door policy. If someone
6 had a complaint, they were welcome to come see me.

7 Q. Who complained about Fritz' performance
8 during your time as captain?

9 A. I don't remember anybody specific.

10 Q. Do you remember the complainant's
11 positions within the police department?

12 A. I know I received a complaint from a
13 record section about his not getting paperwork
14 submitted on time. I also received complaints from
15 sergeants that they didn't like his performance
16 when he was called out on a case, you know, during
17 the night, so but I don't remember specifics about
18 that.

19 Q. All right. In this complaint from
20 sergeants regarding Fritz not coming out on a call,
21 during this time you were captain, correct?

22 A. Yes.

23 Q. All right. And there were two
24 sergeants, correct?

25 A. There were four sergeants.

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1 Q. Four sergeants. And so the sergeants
2 would be the patrol sergeants?

3 A. Yes.

4 Q. All right. Now, aside from being
5 informed about Fritz' performance on the job from
6 complaints within the department or complaints
7 within the department, how else would you come to
8 be aware of Fritz' performance in the job, on the
9 job during your time as captain at the Miami
10 Township Police Department?

11 A. I don't recall anything specific, but,
12 like I said, I had an open door policy. Anybody in
13 the department was welcome to come and air their
14 complaints. I'd always send them to the
15 appropriate person for, you know, for them to look
16 into it. It really wasn't something that I got
17 involved in.

18 Q. Okay. Am I correct in saying that the
19 only way you would become aware of Fritz'
20 performance on the job during your time as captain
21 at the Miami Township Police Department was if
22 people within the department came into your office
23 with a complaint about Fritz; is that correct?

24 MS. JEWELL: Objection. I don't
25 think that's what the testimony was.

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1 THE WITNESS: Not, I mean, yes,
2 but not entirely. I mean, I could observe things
3 on my own.

4 BY MR. SHUKUR:

5 Q. All right.

6 A. So --

7 Q. And what, sorry, how would you come
8 about observing things related to Fritz'
9 performance during your time as captain in the
10 Miami Township Police Department?

11 A. It's like I told you earlier, something
12 was referred to me, and I asked him about the
13 paperwork, and he told me that it was all done.
14 And I found out later that it wasn't done. He
15 didn't complete the paperwork until after the fact,
16 so I would have, you know, had direct knowledge of
17 that. He was not real good about getting paperwork
18 done.

19 Q. And by something being referred to you,
20 that would mean if something were referred to you
21 by somebody from records?

22 A. Could have been records. It could have
23 been dispatch. It could have been somebody from
24 outside the department.

25 Q. All right. And now we're discussing

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1 all the ways you would become aware of Fritz'
2 performance. We've discussed your open door policy
3 and people coming in to make complaints. We've
4 discussed something being referred to you by
5 another member in the Miami Township Police
6 Department. Is there any other way you have become
7 aware of Fritz' performance?

8 A. There's, I'm sure there is a variety of
9 ways. Those are the only things I recall at the
10 time.

11 Q. Okay. All right. How would you assess
12 Tim Wilson's, well, first, do you know Tim Wilson?

13 A. I do.

14 Q. All right. How do you know Tim Wilson?

15 A. We started out as cadets in the
16 department together, so we've been, we've been
17 friends for almost 50 years.

18 Q. How would you assess Mr. Wilson's
19 performance at the Miami Township Police Department
20 during your time at the Miami Township Police
21 Department?

22 A. He's a very, very good investigator.
23 He is, he's good working with people. He knows how
24 to dig deep into an investigation and get the
25 answers that he needs. And he is a, he's a genuine

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1 well-rounded person.

2 Q. Do you know John DiPietro?

3 A. I do.

4 Q. How do you know John DiPietro?

5 A. John was in the department the same
6 time I was. He, when I left the department he was
7 a sergeant. And he, I've known him all that time.

8 Q. DiPietro was a patrol sergeant?

9 A. I'm not sure of that. I know he was, I
10 know his rank, but he had, he was a sergeant of,
11 like, a liaison officer at one time, and so I don't
12 know what he was at that particular time.

13 Q. All right. How would you assess his
14 performance on the job?

15 A. John's a very good, a very good police
16 officer. He tries very hard. He's very, very
17 interested in the profession, and he did very good
18 work for the department.

19 Q. Do you know Scott Moore?

20 A. I do.

21 Q. How do you know Scott Moore?

22 A. He also works in the department.

23 Q. Did you know Scott Moore before he
24 worked in the department?

25 A. Yes.

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1 Q. How did you know Scott Moore before he
2 worked in department?

3 A. He was Jim Moore's son, and he worked
4 security at the Dayton Mall, I believe.

5 Q. Did you see Scott Moore grow up from a
6 pup?

7 A. Not really, no.

8 Q. All right. But you had seen him before
9 he joined department?

10 A. I did, yes.

11 Q. Where would you see Scott Moore before
12 he joined the department?

13 A. As I said, he worked security in the
14 mall. And he would be in the department if he made
15 an arrest in one capacity or another at the mall,
16 they, he caught shoplifters so --

17 Q. The only time you saw Scott Moore
18 before he joined the department was during Scott
19 Moore's time working security at the mall; is that
20 correct?

21 MS. JEWELL: Can you repeat the
22 question?

23 THE WITNESS: Yeah. I --

24 MS. JEWELL: Hold on. Let him
25 repeat the question. I just want to hear it real

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1 quick.

2 BY MR. SHUKUR:

3 Q. The only time that you saw Scott Moore
4 before he began working at the Miami Township
5 Police Department was during Moore's time working
6 security at the mall; is that correct?

7 A. Okay. No. It's not correct. His
8 father was with the department for a long time. My
9 father was with the department for a long time.
10 I'm sure that sometime prior to that I saw him, but
11 I don't remember anything specific about that.

12 Q. Was your assessment of Mr. Moore's
13 performance during his time or during your time at
14 the Miami Township Police Department?

15 A. Mr. Moore was an excellent
16 investigator. He, he worked very hard. He was
17 very diligent. He, he was willing to work a lot
18 and dig into a case, and he generally got results.

19 Q. Did you know Stephen Gray?

20 A. I do.

21 Q. How do you know Stephen Gray?

22 A. He started out in the department
23 working in records section, and then he became a
24 patrol officer.

25 Q. I'm sorry. Going back to Moore for a

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1 second --

2 A. Sure.

3 Q. Actually going to DiPietro, how would
4 you describe your relationship with DiPietro?

5 A. I have a casual relationship with John.
6 We talk occasionally, but not very frequently.

7 Q. Is it a particularly good or bad or
8 friendly, or hostile memories stand out to you
9 during your time or during your relationship with
10 DiPietro?

11 A. With John?

12 Q. Yes.

13 A. I mean, John's a good guy. I don't
14 think I've ever had any arguments or serious
15 disagreements with him.

16 Q. Okay. And how would you describe your
17 relationship with Mr. Moore?

18 A. I have no relationship with Mr. Moore
19 at this stage. I haven't seen him in more than 20
20 years.

21 Q. How would you describe your
22 relationship with Mr. Moore during your time at the
23 Miami Township Police Department?

24 A. Rocky.

25 Q. Why would you your relationship with

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1 Mr. Moore at the time at the Miami Township Police
2 Department as rocky?

3 A. How would I describe it?

4 Q. Why would you describe it as rocky?

5 A. Why would I describe it as rocky? I
6 didn't really care for him when he was working
7 security at the mall. He was very, very arrogant.
8 He didn't, he just didn't fit what I believed to
9 be, you know, you know, as a person. He just
10 seemed very arrogant. I did not agree, and I had
11 several conversations with his father. I disagreed
12 with the fact of bringing him on at the department
13 because of those reasons, you know, a lot of cops
14 are cocky. He was a little more than that. And I
15 didn't care for him, didn't care for his
16 personality.

17 Q. Why do you describe Mr. Moore as
18 arrogant and more than cocky, well, during your
19 time at Miami Township Police Department?

20 A. When he was involved even before he
21 actually became part of the department, he was
22 just, you know, the attitude, the air of his
23 conversation was, you know, condescending and
24 cocky.

25 Q. All right. I'm trying to, you ever

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1 heard when you were in middle school you were
2 learning how to write compositions, and they said,
3 show me, don't tell me?

4 A. No.

5 Q. No, they didn't tell you that? What's
6 going on here?

7 A. I graduated from high school in 1970,
8 so those were the good old days.

9 Q. All right. Well, I'm trying to get a
10 picture for why you would try to describe Moore as
11 arrogant and cocky. And part of your explanation
12 was that he had an air of cockiness which doesn't
13 help me in terms of visualizing it. So if you can
14 show me a little more, so aside from Mr. Moore,
15 here's my question.

16 A. Okay.

17 MS. JEWELL: Go ahead. Ask the
18 question.

19 MR. KAY: You know my objection's
20 coming, but go ahead. You can finish your question
21 first.

22 BY MR. SHUKUR:

23 Q. All right. I appreciate it. Besides
24 from Mr. Moore having, here's my question; aside
25 from Mr. Moore having an air of being condescending

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1 and cockiness, why else do you describe Mr. Moore
2 as being arrogant and more than cocky?

3 MR. KAY: Objection to form.
4 Asked and answered.

5 THE WITNESS: I guess the easiest
6 thing to describe it, and maybe you can visualize,
7 my dad's the police chief, so you can't tell me
8 what to do.

9 BY MR. SHUKUR:

10 Q. Did Mr. Moore do anything that
11 suggested or gave off an air of arrogance or
12 cockiness, did he do anything in terms of actions?

13 A. He didn't do anything that I remember
14 specifically. It was just his attitude and his,
15 and his, as you describe, air of confidence.

16 Q. All right. And is this air of
17 arrogance and cockiness the only reason you had a
18 rocky relationship with Moore?

19 A. Can you be more specific?

20 Q. Well, earlier you described your
21 relationship with Moore as rocky, correct?

22 A. Yeah.

23 Q. And I'm trying to understand why you
24 describe your relationship with Moore as rocky.
25 And in response to that question you said that he

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1 had an air of arrogance and cockiness; is that
2 correct?

3 A. That's correct.

4 Q. All right. And I just want to know if
5 we covered all the basis if the only reason you had
6 a rocky relationship with Moore was, you know, his
7 air of arrogance and cockiness. So here's my
8 question, aside from Moore having an air of
9 arrogance and cockiness, was there any other reason
10 you had a rocky relationship with Mr. Moore?

11 A. Well, during the course of the time
12 that he was a patrol officer in the detective
13 section, I just, he was just one of those guys that
14 I didn't care for. I didn't care for how he got on
15 the department. He kind of made that obvious to
16 everyone that, you know, my dad's the police chief,
17 you know. So his dad and I had conversations about
18 that, but, you know, I didn't, I didn't win that
19 conversation.

20 But other than that, I mean,
21 during the course of the time that he was, he was,
22 you know, with the department, I don't know what
23 specific that you're asking that, you know, okay?
24 I don't remember any particular arguments that he
25 and I had. It's just that, you know, I didn't care

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1 for him.

2 Q. Moving on to Mr. Gray. How would you
3 describe your relationship with Mr. Gray?

4 A. It was casual. He worked in the record
5 section, and he was competent. He did what he was
6 told. He was a bit immature, but he was a good
7 guy.

8 Q. Why do you say he was immature?

9 A. He liked to joke around a lot and kind
10 of play games and whatever.

11 Q. Do you know Rick Wolfe?

12 A. I know of Rick Wolfe, yeah.

13 Q. Have you ever been, well, you said you
14 know of him. Why do you say you know of him?

15 A. He was with the department in the '80s.
16 I don't think I've seen him or talked to him since
17 then. So, I mean, I know who Rick Wolfe is, but if
18 I bumped into him on the street, I probably
19 wouldn't recognize him.

20 Q. Did you have a relationship with
21 Mr. Wolfe in the '80s?

22 A. Well, we both worked at the department
23 together. I'm sure that we probably did some
24 things together. I don't remember anything
25 socially, just stuff within the department. Other

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1 than that, I don't know whether he was there, and I
2 was there at the same time, and that's pretty much
3 it.

4 Q. So is it safe to say that, well, sorry,
5 looking back, here's my question. Looking back
6 over your time at the department during which Rick
7 Wolfe was also at the department, do you have any
8 impressions of Mr. Wolfe or his performance?

9 A. Performance, no. But what I do
10 remember about Rick Wolfe was that he was a
11 genuine, nice guy. He seemed to get along with
12 everyone.

13 Q. Do you know Keith Stapleton?

14 A. No.

15 Q. Have you ever known Keith Stapleton?

16 A. Not that I'm aware.

17 Q. Do you know Robert Miller?

18 A. No.

19 Q. Do you know if you've ever known Robert
20 Miller?

21 A. I don't believe I have, no.

22 Q. Do you know David Burke?

23 A. No.

24 Q. Have you ever known David Burke?

25 A. Not that I'm aware of.

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1 Q. Do you know Robert Burke?

2 A. Robert Burke?

3 Q. Yes.

4 A. No.

5 Q. Have you ever known Robert Burke?

6 A. No.

7 Q. All right. Now I'd like talk a little
8 more about your time as captain of the Miami
9 Township Police Department.

10 A. Would you mind if we took a little
11 break so I can go to the bathroom?

12 MR. SHUKUR: Of course. Of
13 course. Off the record.

14 (WHEREUPON, a recess was taken.)

15 BY MR. SHUKUR:

16 Q. We are back on the record. All right.
17 Mr. Scothorn, before we went on break, I told you
18 I'd like to talk more about your time as captain at
19 the Miami Township Police Department. You were
20 captain from 1990 to 1996, correct?

21 A. That's correct.

22 Q. All right. As captain at the Miami
23 Township Police Department, you were second of
24 command?

25 A. Yes.

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1 Q. All right. And as second of command,
2 you were in charge part of, or responsible for
3 supervising people under you; is that correct?

4 A. That's correct.

5 Q. All right. And that, that charge to
6 supervise included insuring that your subordinates
7 conducted ethical and thorough investigations?

8 A. In part, yes.

9 MR. HERMAN: Objection, form.

10 MS. JEWELL: Objection.

11 BY MR. SHUKUR:

12 Q. All right. It also included in part
13 monitoring your subordinates' activities?

14 A. Through a chain of command.

15 Q. Through a chain of command. All right.
16 And you would also at times sort of observe your
17 subordinates on the job as they were performing
18 various law enforcement activities?

19 A. Less frequently.

20 Q. But you would do it?

21 A. Occasionally.

22 Q. Were your responsibilities, duties as
23 captain sort of detailed in writing anywhere?

24 A. I'm sure they were. I don't have any
25 record of any of that.

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1 Q. Why do you say you're sure they were?

2 A. Well, I don't recall anything, but I
3 would assume that somewhere there was a job
4 description.

5 Q. But you can't say whether or not you
6 ever saw a job description?

7 A. I cannot say that I did, whether I have
8 or not.

9 Q. As captain were you responsible also
10 for helping to create department policies?

11 A. Technically, yes.

12 Q. You're certainly responsible in part
13 for enforcing department policies?

14 A. To a point, to a limit, yes.

15 Q. All right. And all of the
16 responsibilities we've just detailed were carried
17 out by you to the best of your abilities, correct?

18 A. Being responsible doesn't necessarily
19 mean that I carried them out, but there was a chain
20 of command.

21 Q. What do you mean by being responsible
22 doesn't mean you carried them out?

23 A. Ultimately I'm responsible for people,
24 but through the chain of command other individuals
25 were responsible for other people that were working

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1 in the department. And I was never a
2 micro-manager, so as long as there was no need for
3 me to get involved with things, I didn't get
4 involved.

5 Q. But you certainly made sure that your
6 subordinates were doing their job, correct?

7 MS. JEWELL: Objection, asked and
8 answered. Go ahead and answer.

9 THE WITNESS: If I, you know, had
10 a problem then I would, I would look into it. I
11 would talk to somebody, but on a day-to-day
12 operation, I usually didn't get involved in
13 anything.

14 BY MR. SHUKUR:

15 Q. During your time as captain at the
16 Miami Township Police Department, the lieutenant
17 was in charge of supervising the detective
18 sergeant?

19 A. That's correct.

20 Q. That's correct. And your job in part
21 was to make sure that the lieutenant was, in fact,
22 supervising the detective sergeant; is that
23 correct?

24 MS. JEWELL: Objection.

25 THE WITNESS: Again, if there was

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1 no issue then I usually didn't get involved.

2 BY MR. SHUKUR:

3 Q. And, all right. And so, and right now
4 I understand your answer. Right now I'm not
5 asking, you know, if you got involved if there was
6 no issue or not. I'm just asking if that was a
7 part of your sort of responsibility as captain it
8 might not have been, but, you know, was it your
9 responsibility as captain to make sure that the
10 lieutenant was supervising the detective sergeant?

11 MS. JEWELL: I'm sorry, can you
12 repeat the last part of that question?

13 BY MR. SHUKUR:

14 Q. Was it your responsibility as captain
15 to make sure that the lieutenant was supervising
16 the detective sergeant?

17 A. I'd have to say my responsibility, yes.

18 Q. Earlier you said if there was no issue
19 you wouldn't get involved. What do you mean by
20 that?

21 A. I had other responsibilities within the
22 department that didn't involve directly supervising
23 people. So if there was no issue, and no one was
24 complaining, and I felt that the supervisors were
25 doing their job, then there was no reason for me to

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1 become involved.

2 Q. And these other issues that you had to
3 deal with include the responsibilities you had as a
4 lieutenant regarding records and dispatch, correct?

5 A. Well, that also, but I did a lot of
6 administrative duties as the captain.

7 Q. And you said if there were not issues,
8 and people weren't complaining then you wouldn't
9 get involved in terms of whether people were
10 supervising or not. Now, what do you mean by if
11 there was no issue?

12 A. If no one was complaining about the
13 specific issue, I wasn't one to go downstairs and
14 say, has anybody pissed you off today? So I was
15 not a micro-manager.

16 Q. All right. All right. In part of the,
17 so here's my question, part of the lieutenant's
18 duty during your time at the Miami Township Police
19 Department was to make sure that the detective
20 sergeant was supervising the detectives; is that
21 correct?

22 A. That would be correct.

23 Q. Which means part of your responsibility
24 was to make sure the lieutenant was ensuring that
25 the detective sergeant was carrying out his

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1 supervisory responsibilities regarding detectives,
2 correct?

3 MS. JEWELL: Objection, asked and
4 answered.

5 BY MR. SHUKUR:

6 Q. You can answer.

7 A. Through the chain of command, yeah.

8 Q. What do you mean through the chain of
9 command?

10 A. There was, there were layers of
11 supervisors below me. I did not get involved in
12 the day-to-day operations of pretty much anything
13 unless there would become a reason for me to be
14 involved.

15 Q. Right. There would only become a
16 reason for you to get involved if somebody came to
17 you with a complaint; is that correct?

18 A. Or I saw something personal.

19 Q. All right. How would you see something
20 personal?

21 A. Not that anything like this ever
22 occurred, but if I was say, driving down the road,
23 and I saw a police cruiser pulled over doing
24 something that would be inappropriate, I may
25 contact his supervisor and say, hey, what is this

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1 guy doing? Something like that.

2 Q. In other words, if you saw something by
3 happenstance?

4 A. Yes.

5 Q. All right. But you had never, you
6 know, look for, you know, any indicia that
7 something was awry or not; is that correct?

8 A. I didn't look for problems. I would
9 sometimes maybe check and ask if everything was
10 going okay, but I did not look for problems.

11 Q. What was the detective sergeant's
12 responsibilities during your time as captain at the
13 Miami Township Police Department?

14 MS. JEWELL: Objection. This has
15 already been covered. Go ahead.

16 THE WITNESS: I don't remember
17 specifically. He was just overseeing the detective
18 section.

19 BY MR. SHUKUR:

20 Q. What do you mean by oversee the
21 detective section?

22 A. He was there to assign cases to be, you
23 know, there for assistance if someone needed
24 something to help investigate on occasion to make
25 connections with other authorities in the county

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1 that may need to have, you know, pretty much a
2 person that could be a conduit between other
3 departments and our department.

4 Q. Aside from the detective sergeant, who
5 else would assign cases to detectives?

6 A. We had a detective corporal.

7 MR. KAY: I'm sorry, what did you
8 say?

9 THE WITNESS: A detective
10 corporal.

11 BY MR. SHUKUR:

12 Q. Where did the detective corporal fit in
13 the chain of command?

14 A. He was below the detective sergeant,
15 and he filled in in place of or in the stead of the
16 detective sergeant when the detective sergeant
17 wasn't available for one reason or another.

18 Q. Who was the detective corporal in 1990?

19 A. I'm not sure.

20 Q. You're sure that the position of
21 detective corporal did exist in 1990?

22 A. I'm sure that it existed.

23 Q. So aside from filling in for the
24 detective sergeant in the event of the detective
25 sergeant's absence, what were the other

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1 responsibilities of the detective corporal?

2 A. He carried his own caseload.

3 Q. And the other responsibilities?

4 A. Like I said, he stood in for the
5 detective sergeant when the detective sergeant
6 needed, you know, wasn't available for one reason
7 or another.

8 Q. So aside from the detective sergeant
9 and the detective corporal, who else would assign
10 cases to detectives?

11 A. No one that I'm aware.

12 Q. And just so I understand, no one else
13 aside from, or I'm sorry. Here's my question. You
14 do not recall anyone else besides the detective
15 sergeant and the detective corporal assigning cases
16 to detectives; is that correct?

17 A. That's correct in the, for your
18 question, yes. Some cases automatically went to
19 the detective section depending on what they were,
20 like, a homicide or, you know, sometimes a suicide.
21 It would go directly to the detective section in
22 their, sometimes someone was on call. And he would
23 get the case because he was, he was on call at the
24 time of the occurrence.

25 Q. All right.

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1 A. And then he wouldn't, in your
2 definition or my definition, he wouldn't actually
3 be assigned that case. It would be something that
4 he acquired because of his position.

5 Q. Who would he get the call from?

6 A. From the road sergeant.

7 Q. From the road sergeant. Was the road
8 sergeant, the road sergeant one of the four patrol
9 sergeants?

10 A. Yes.

11 Q. During your time as captain the road
12 sergeant would only give a detective a call or
13 assign a case to, well, not assign a case. Here's
14 my question, a detective would only get a call from
15 a road sergeant regarding a case through your time
16 as captain if -- actually, scratch that question.
17 A series of bad questions.

18 Under what circumstances would a
19 road sergeant give a detective a call about a case?

20 A. It would depend on the circumstances of
21 the case and the magnitude of the case whether it
22 be a homicide or, like I said, some suicides. If
23 there were extenuating circumstances to a case,
24 even maybe a missing person, they would call and
25 say, you know, hey, you know, the detectives need

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1 to look at this case. And then depending on what
2 it was, whether or not the detective section would
3 actually, you know, investigate it. But most times
4 they would, whoever was on, whoever the detective
5 was on call would take the case.

6 BY MR. SHUKUR:

7 Q. All right. So the road sergeant would
8 sometimes contact detectives directly instead of
9 contacting the detective sergeant; is that correct?

10 A. That's correct.

11 Q. Who is the road sergeant in 1990?

12 A. I couldn't really tell you. I don't
13 know. It's been, it's been a long time. In
14 1990 --

15 MS. JEWELL: Just answer the
16 question asked.

17 MR. SHUKUR: That's, that's not an
18 objection. That's just coaching. One second.
19 I'll ask that you refrain from coaching again just
20 because it impairs my ability to conduct the
21 deposition.

22 BY MR. SHUKUR:

23 Q. All right. So what were you saying?

24 A. I don't know who the particular road
25 sergeant was at the time. I couldn't even tell you

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1 exactly who was there and who worked what shift.

2 Q. All right.

3 A. It's been a long time ago, and it's not
4 something that I committed to memory. So we had
5 several sergeants and sometimes they, you know,
6 they were there. Sometimes they weren't. We also
7 had corporals that worked the streets, so I don't
8 know who, anybody specific.

9 Q. Understood. If a case was transferred
10 from one detective to another detective during your
11 time as captain who would transfer the case or
12 assign the case?

13 A. Can you give me a little bit of, just
14 you need, you just want to know what now?

15 Q. If a detective was investigating a
16 case, so let's say a detective named John was
17 investigating a case and then the detective left
18 the department, who would reassign the case?

19 A. I would assume if there was no
20 detective --

21 MS. JEWELL: Don't assume. Answer
22 the question.

23 MR. SHUKUR: Again, we're going to
24 have to stop coaching.

25 MS. JEWELL: I'm not coaching.

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1 MR. SHUKUR: That's not an
2 objection, though.

3 MS. JEWELL: It's fine. He said,
4 I assume.

5 MR. SHUKUR: I'm just saying the
6 proper role is to object if there's an
7 objectionable question. To literally coach
8 witnesses during the deposition --

9 MS. JEWELL: I'm not coaching him.
10 Go ahead, and ask your question.

11 MR. SHUKUR: Was that an
12 objection? I'm trying to resolve a discovery
13 dispute before we have to get the court involved
14 because more than twice now you've given the
15 witness coaching on the record, certain --

16 MS. JEWELL: Do you want him to
17 assume or not?

18 MR. SHUKUR: Certainly didn't make
19 an objection, and it's improper.

20 MS. JEWELL: But do you want him
21 to assume or not?

22 MR. SHUKUR: I don't want to get
23 the court involved.

24 MS. JEWELL: Me either. Do you
25 want him to assume or not?

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1 MR. SHUKUR: So, I would like, I
2 would like for you to make proper objections.

3 MS. JEWELL: I would like for him
4 not to guess or speculate, and I'm sure everybody
5 in here would tell him not to guess or speculate.

6 MR. SHUKUR: I understand. So can
7 you tell him that now and not before, you know,
8 before he answers one of my questions. You can
9 tell him right now but to repeatedly do it --

10 MS. JEWELL: Well, he says, I
11 assume. I don't know what his answers are going to
12 be.

13 MR. SHUKUR: You know that's
14 improper.

15 MS. JEWELL: Well, I don't know
16 what his questions are going to be. When I hear
17 him say, I assume, I'm going to cut him off.

18 MR. SHUKUR: I understand, and
19 that's improper.

20 MS. JEWELL: There's no difference
21 if I tell him right now or if he says I assume.

22 MR. SHUKUR: I'm just saying it is
23 different because it's literally coaching him.

24 MS. JEWELL: It doesn't change his
25 answer. He's already saying he's assuming.

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1 MR. SHUKUR: The next time I will
2 get the court involved.

3 MS. JEWELL: That's fine. Do you
4 understand that you're not to guess or speculate?

5 THE WITNESS: I understand.

6 MS. JEWELL: So if you have to
7 assume or speculate, don't answer. Just say, I
8 don't understand or I don't know. And then he can
9 ask a follow up question, okay?

10 THE WITNESS: Okay.

11 MR. SHUKUR: All right. And
12 you're more than welcome to tell him that again
13 during a break but not during our examination.
14 Obviously next time I am going to call the court.

15 MS. JEWELL: That's fine. You can
16 do what you need to, and I'll do what I need to.

17 BY MR. SHUKUR:

18 Q. Great. All right. So who would
19 reassign cases to detectives after a detective left
20 the department during your time as a captain at the
21 Miami Township Police Department?

22 A. It would be someone within the
23 detective section, whether the corporal or the
24 lieutenant depending on the circumstances.

25 Q. Okay. All right. Earlier we discussed

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1 your, or the ways in which you would supervise your
2 subordinates as captain. And what you made sure
3 your subordinates sort of did, one of those things
4 we discussed was ensuring that your subordinates
5 conducted ethical investigations. How would you
6 ensure that your subordinates conducted ethical
7 investigations?

8 A. If the, if they were doing an
9 investigation, and there were no one, if I seen
10 anything inappropriate or if they completed the
11 investigation and went to the prosecutor's office
12 to obtain charges.

13 (WHEREUPON, Mr. Deters exited the
14 room.)

15 THE WITNESS: And the prosecutor's
16 office didn't see anything unethical, then why am I
17 to assume that they did?

18 BY MR. SHUKUR:

19 Q. So how would you come about seeing
20 whether or not you saw anything unethical
21 throughout, your subordinates were conducting
22 investigations?

23 A. As I said earlier, there were several
24 layers between me and the detectives. I would, you
25 know, I would, you know, you know, if there were

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1 something specifically come up, I would ask
2 questions about it, but I wouldn't go to the
3 detective. I would go to the lieutenant and then
4 down the chain of command. So I didn't have a lot,
5 if any, direct contact with them. If there were
6 something unethical going on or we received some
7 kind of a complaint from somebody from the courts,
8 from an attorney, from a complainant, whatever,
9 then we would deal with it, you know, as needed,
10 you know, on a case-by-case basis, but nothing, you
11 know, we didn't go searching for problems.

12 Q. During your time as captain you
13 reviewed a number of reports authored by
14 detectives, correct?

15 A. No.

16 Q. During your time as captain did you
17 ever review a report authored by a detective?

18 A. Not a part of my job, no.

19 Q. I'm not asking if it was a part of your
20 job. I'm trying to see is if you ever read a
21 report authored by a detective during your time as
22 captain?

23 A. Not that I recall.

24 Q. Then earlier during your conversation
25 you said that you would monitor the activities of

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1 your subordinates through the chain of command,
2 correct?

3 A. That is correct.

4 (WHEREUPON, Mr. Deters entered the
5 room.)

6 BY MR. SHUKUR:

7 Q. All right. What do you mean by
8 monitoring activities through the chain of command?

9 A. I would sometimes ask questions about
10 specific things that I had seen or heard or if
11 someone came to me with something whether it be a
12 problem or just in conversation then I would say,
13 hey, John told me this. What's the story behind
14 that? And then they would tell me the story. And
15 then I would say, okay. Have you taken care of it?
16 Yeah. It's been taken care of. And that was that.

17 Q. So is it correct, sorry. Here's my
18 question. So is it correct that you would monitor
19 the activities of your subordinates through the
20 chain of command in response to something that you
21 saw or heard?

22 A. Not only for something that I saw or
23 heard.

24 Q. All right. Under what other
25 circumstances? Go ahead.

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1 A. It could be just a question of
2 something that I, that I, you know, I thought about
3 or I was curious about.

4 Q. Did you have routine performance
5 reviews during your time as captain?

6 A. Yes.

7 Q. Describe these routine performance
8 reviews.

9 MS. JEWELL: I'm sorry, before you
10 answer, are you asking about, just for
11 clarification for my sake, are you asking for
12 performance reviews on other employees at Miami
13 Township or did he himself have a performance
14 review?

15 BY MR. SHUKUR:

16 Q. Both.

17 A. Okay. We did have performance reviews.
18 I don't remember specifics about them. They were
19 made up by, I believe someone from Wright State
20 University supplied to us, and I had one, but it
21 was similar, just basically the changes were
22 because of job position.

23 Q. All right. The performance reviews
24 produced by Wright State University were in
25 writing?

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1 A. Yes.

2 Q. Do you have a copy of any of these
3 performance reviews?

4 A. I do not.

5 Q. Now, I'd like to discuss the
6 performance reviews of your subordinates. During
7 these performance reviews would you meet one-on-one
8 with your subordinates?

9 A. Yes.

10 Q. All right. You would meet one-on-one
11 with the lieutenant?

12 A. Yes.

13 Q. You would meet one-on-one with each of
14 the sergeants?

15 A. No.

16 Q. How often would you have a performance
17 review meeting with the lieutenant?

18 A. Annually.

19 Q. Would this performance review be
20 documented in any way?

21 A. It was, yes. It would have been
22 documented. But it would be inserted in their
23 personnel file.

24 Q. And how would it be documented?

25 A. In writing. It would be a question and

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1 answer type thing.

2 Q. And the questions were the questions
3 produced by Wright State University?

4 A. Yes.

5 Q. Were there any additional questions on
6 the performance review aside from the questions
7 produced by Wright State University?

8 A. It could be. It depends on if someone
9 has specific questions about, you know --

10 (WHEREUPON, Mr. Kay exited the
11 room.)

12 THE WITNESS: You know, the
13 performance, and the questions on the performance
14 review didn't actually cover to the extent that
15 they were interested.

16 MR. SHUKUR: All right.

17 BY MR. SHUKUR:

18 Q. Were the questions produced by, and by
19 someone, sorry, here's my question. By someone
20 you're referring to whom, if someone had an
21 additional question?

22 A. Whoever was doing the performance
23 review.

24 Q. All right. I want to only talk about
25 you. And you were doing the --

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1 A. So what I did was the aside from the
2 detective sergeant. Lieutenant.

3 Q. Right. The only one you did was
4 lieutenant, and you would conduct your performance
5 review of the lieutenant by having a meeting and
6 asking a series of questions made by Wright State
7 University in writing, correct?

8 A. Yes. To the best of my knowledge, yes.

9 Q. To the best of your knowledge. And in
10 addition to the questions produced by Wright State
11 University did you ever ask any other questions and
12 document the response in writing? Yeah.

13 A. Any question that I ask in addition to
14 what was in the performance review would have been
15 documented in the same performance review.

16 Q. Did you, and do you remember asking any
17 additional questions aside from the questions
18 produced by Wright State University?

19 A. I don't remember anything specific, no.

20 Q. These performance reviews that we've
21 been discussing were documented in 1990, correct?

22 MS. JEWELL: Objection.

23 THE WITNESS: I don't know that
24 for sure, no.

25 BY MR. SHUKUR:

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1 Q. So you don't know whether it was or was
2 not documented in writing in 1990?

3 A. The performance we did, the performance
4 reviews we did were documented, but I don't know if
5 it actually occurred in 1990 or it actually
6 occurred in 1991 or if, you know, the previous
7 year, it was in 1989. I don't know what year it
8 was actually produced.

9 Q. All right. Were the performance
10 reviews taylorized to each specific position, so were
11 the performance review questions produced by Wright
12 State University different for the lieutenant than
13 they were for, let's say, the captain, for you?

14 A. That's correct.

15 MR. HERMAN: Objection.

16 BY MR. SHUKUR:

17 Q. All right. During your time as captain
18 you had the occasion to observe a detective
19 performing an investigative task or investigatory
20 task at least once, correct?

21 A. Correct.

22 Q. All right. Did you observe a detective
23 perform a task, investigative tasks on multiple
24 occasions?

25 A. Yes.

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1 Q. When would you decide or, yeah, when
2 would you decide whether or not to observe a
3 detective in the performance of their duties?

4 A. It generally wasn't by choice. It was,
5 like, it called out on because of the type of
6 offense that they were investigating, homicide, you
7 know, robbery. I would be called out to observe.

8 Q. Would you be ever be called out to a
9 rape investigation?

10 A. I don't recall any time I was ever
11 called out to a rape investigation.

12 Q. Did you only observe detectives
13 performing investigative tasks when you were called
14 out?

15 A. Can you be a little bit more specific?

16 (WHEREUPON, Mr. Kay entered the
17 room.)

18 BY MR. SHUKUR:

19 Q. Well, first, who would call you out to
20 a scene where, as a site or whatever, sorry, that's
21 a bad question. When you say you would respond to
22 being called out to, I guess, assist a detective?

23 A. No. I would be called out because of
24 the severity of the crime, a specific crime.
25 There, you know, a homicide, multiple homicide.

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1 Sometimes, you know, if there was extenuating
2 circumstances around a robbery, I was called out
3 to, you know, officer-involved shooting, so those
4 type of things.

5 Q. You would be called out by whom?

6 A. I would be called out by whoever was in
7 charge of the scene. That would be, generally
8 speaking, that would be the patrol sergeant.

9 Q. Okay. Did you ever have the occasion
10 to observe a detective on the job during your time
11 as captain at the Miami Township Police Department
12 other than when you were called out by somebody at
13 the scene of a crime?

14 A. You mean observed the investigation?

15 Q. Yes.

16 A. No.

17 Q. And earlier you said that you were
18 technically responsible for creating department
19 policies. Please tell me why you say that you were
20 technically responsible for creating department
21 policies?

22 A. We had an employee that did
23 departmental, that created policies for our
24 accreditation program. She would get advice,
25 documents from other departments to help create

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1 those documents so that she didn't have to
2 continually reinvent the wheel. She was, she
3 reported directly to me. So technically I was, you
4 know, in charge of that, but when it comes to the
5 policies, she would present a policy to me. Then I
6 would, I reviewed the policy. If I thought it was
7 okay, then it would go to a small board that we had
8 that. This is the policy we're presenting, you
9 know. Does this, does it meet everybody's
10 understanding? Is this clear enough? And do, you
11 know, do we want to go farther? Did we go too far?

12 So it wasn't, so we had like a
13 little committee that we reviewed those things. So
14 technically I was in charge of her, but I did not
15 have the ultimate say on whether a policy was
16 created or disposed of.

17 Q. The department was accredited around
18 1994?

19 A. That's correct.

20 Q. All right. Before 1994 you carried
21 some of the responsibility for creating the
22 department policies or were there any policies?

23 A. My answer to that would have to be no.

24 Q. Were there any policies before '94?

25 A. There was.

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1 Q. Who was responsible for creating the
2 policies?

3 A. The police chief and the lieutenant.
4 Prior to that I did not have any involvement in
5 that.

6 Q. During your time as captain at the
7 Miami Township Police Department, did you ever
8 discipline any detective?

9 MS. JEWELL: Objection.

10 THE WITNESS: I had the authority
11 to discipline only up to an oral reprimand. And
12 specifically did I ever discipline a detective? I
13 don't recall ever disciplining specifically a
14 detective.

15 BY MR. SHUKUR:

16 Q. You said you have the authority to
17 discipline up to an oral reprimand?

18 A. I'm sorry. Did I say oral? I meant
19 written reprimand.

20 Q. When you say you have the authority to
21 discipline up to a written reprimand, do you mean
22 that you have the authority to discipline any of
23 your subordinates up to a written reprimand?

24 A. Yes.

25 Q. What were the other types of

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1 disciplinary actions that you could have carried
2 out as captain of the Miami Township Police
3 Department?

4 A. I had two options, oral reprimand,
5 written reprimand. Those were my two options. If
6 there was anything more than that or I felt that
7 there was more discipline needed, then I had to
8 kick it up to the police chief.

9 Q. During your time as captain, did you
10 ever discipline anybody by issuing a written
11 reprimand?

12 A. Yes.

13 Q. Who did you discipline?

14 A. I don't recall anybody specific or any
15 reason specific at this point.

16 Q. Did you issue multiple written
17 reprimands during your time as captain at the Miami
18 Township Police Department?

19 A. Over the course of my tenure I'm
20 assuming that I did at least more than one or two.

21 Q. Did you issue any oral reprimands
22 during your time as captain at the Miami Township
23 Police Department?

24 A. Again, during my tenure, I, you know,
25 I'm sure more than one or two.

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1 Q. Do you remember any specific instance
2 of you issuing an oral reprimand during your time
3 as captain?

4 A. Oral and written reprimand are
5 relatively for minor offenses. So I wouldn't, it's
6 not something that I would recall.

7 Q. During your time as captain, did you
8 ever refer one of your subordinates to the police
9 chief for discipline?

10 A. Yes.

11 Q. Who did you refer to the police chief
12 for discipline?

13 A. Ed Wilson.

14 Q. When did you refer Ed Wilson to the
15 police chief?

16 A. I don't recall specifically when. I
17 believe it was in the early '90s.

18 Q. Why did you refer Ed Wilson to the
19 police chief?

20 A. He beat up his wife.

21 Q. Aside from Ed Wilson, did you refer any
22 of other subordinates to the police chief for
23 discipline during your time as captain?

24 A. I don't recall anyone else.

25 Q. All right. Now, part of Miami Township

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1 Police Department law enforcement officer's
2 responsibilities during your time there or during
3 your time as captain was to turn over discovery to
4 the prosecutors; is that right?

5 A. That would, yes.

6 Q. Explain for me how or sort of the Miami
7 Township Police Department's practice regarding
8 turning over discovery to prosecutors from about
9 '88 to '91?

10 A. I never worked in the detective
11 section. I don't remember ever being involved in
12 that, so I couldn't tell you exactly what their
13 process is because I don't recall, and I don't know
14 that I ever knew because I never dealt directly
15 with the prosecutor's office like that.

16 Q. Okay. So you don't believe you ever
17 knew about the practice in the Township regarding
18 turning over discovery to prosecutors?

19 MS. JEWELL: Objection.

20 MR. HERMAN: Objection.

21 BY MR. SHUKUR:

22 Q. Is that correct?

23 A. Yes. I don't believe I ever knew then.

24 Q. Now, in addition to turning over
25 discovery to prosecutors, another responsibility

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1 that Miami Township Police Department law
2 enforcement officers had from, during your time at
3 the department was to retain evidence as well, to
4 preserve evidence prior to someone being put on
5 trial or convicted, correct?

6 MS. JEWELL: Objection.

7 MR. HERMAN: Objection.

8 THE WITNESS: We had a property
9 room where we stored property for certain
10 instances. If it was, if it was involved in a
11 crime it may go to the crime lab.

12 BY MR. SHUKUR:

13 Q. All right. And aside from placing
14 evidence in a property room or to a crime lab or
15 giving the property to the crime lab, how else
16 would the Miami Township Police Department preserve
17 evidence during your time at the department?

18 MR. HERMAN: Objection.

19 THE WITNESS: We stored it in a
20 property room. Depending on what the case was, it
21 was logged into the logbook and stored on, you
22 know, in a room full of shelves.

23 BY MR. SHUKUR:

24 Q. In addition to preserving evidence, the
25 Miami Township Police Department law enforcement

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1 officers also had the duty to preserve written
2 reports relating to criminal investigations
3 conducted by the department, correct?

4 A. Yes.

5 MS. JEWELL: Objection.

6 MR. HERMAN: Objection.

7 BY MR. SHUKUR:

8 Q. What was the practice for preserving
9 the written reports during your time at the Miami
10 Township Police Department?

11 A. When a report was finished, and not
12 necessarily the entire report but the initial
13 report, it was submitted to the records for them to
14 log it and file it. And then as the case
15 continued, they did supplemental reports, and those
16 also would have gone to the record section and been
17 filed with the original reports.

18 MR. HERMAN: Omavi, you may want
19 to have him clarify, and maybe I can do it later on
20 because I know earlier he talked about
21 transitioning to a computer based system.

22 MR. SHUKUR: I'm getting there.

23 MR. HERMAN: Because that was kind
24 of broad, and he generally answered your questions.

25 MR. SHUKUR: I'm getting there.

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1 I'm getting there.

2 MR. HERMAN: All right.

3 BY MR. SHUKUR:

4 Q. All right. Okay. And once
5 supplemental reports would go to records to be
6 filed along with written reports, what would
7 records do with the reports?

8 MR. HERMAN: Objection.

9 MS. JEWELL: Objection.

10 THE WITNESS: They were filed.

11 BY MR. SHUKUR:

12 Q. Where?

13 A. With the original report.

14 Q. Where would it be filed in a, sorry.
15 In, let's say, this talked specifically before
16 computerized recordkeeping was implemented, okay?

17 A. Uh-huh.

18 Q. So before computerized recordkeeping
19 was implemented by the department an officer would
20 file an initial report to records to log and file
21 and then filed any supplemental reports to records
22 to be filed along with the initial report; is that
23 correct?

24 A. That is correct.

25 Q. All right. Now, where would the

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1 initial report be filed before computerized
2 recordkeeping was implemented?

3 MS. JEWELL: Objection.

4 THE WITNESS: The initial report
5 would be number and logged in a file created for
6 it, and it would be kept in a file cabinet in the
7 property room. And any supplements would have gone
8 through the same process.

9 BY MR. SHUKUR:

10 Q. And it would be in the file cabinet in
11 which room?

12 A. The property room.

13 Q. Before the implementation of
14 computerized recordkeeping would supplemental
15 reports sometimes not be filed with the proper
16 initial report and the property room?

17 MS. JEWELL: Objection.

18 MR. HERMAN: Objection.

19 THE WITNESS: Not that I'm aware.

20 BY MR. SHUKUR:

21 Q. So you do not remember any instance of
22 a supplemental report not being filed with the
23 proper initial report in the property room; is that
24 correct?

25 A. That's correct.

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1 Q. All right. After the implementation of
2 computerized recordkeeping, actually here is my
3 question, how did the implementation of
4 computerized recordkeeping change the department's
5 practice of recordkeeping regarding police reports,
6 if at all?

7 A. We did both for a while. We did paper
8 reports, and we also did computerized reports. And
9 they, until we reached a point where everybody was
10 comfortable with the computer, then we, we
11 maintained the paper copies. Then after the
12 computers were implemented, then the officers
13 started doing their paperwork on the computer, and
14 they printed out the reports and then filed the
15 reports.

16 Q. Even after the implementation of
17 computerized recordkeeping there was still a system
18 for filing paper copies of police reports; is that
19 correct?

20 A. That's correct.

21 Q. All right. And were officers required
22 to still produce and file paper copies of police
23 reports or was this optional?

24 MR. HERMAN: Objection.

25 MS. JEWELL: Objection.

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1 THE WITNESS: It was mandatory.

2 BY MR. SHUKUR:

3 Q. All right. What was the Miami Township
4 Police Department's practice related to or, yeah,
5 relating to photo lineup procedures during your
6 time as captain of, yeah, captain at the Miami
7 Township Police Department?

8 MR. HERMAN: Objection.

9 THE WITNESS: I don't recall
10 having a specific policy about that. I've never
11 done one. I never had the instance that I needed
12 to do a photo lineup.

13 BY MR. SHUKUR:

14 Q. So you don't recall any specific policy
15 governing photo lineup procedures --

16 A. I don't recall.

17 Q. -- during your time as captain at the
18 Miami Township Police Department?

19 A. I don't recall one, no.

20 MR. HERMAN: Objection.

21 MS. JEWELL: Objection. I think
22 his testimony is that he is not aware of it.

23 BY MR. SHUKUR:

24 Q. Do you recall any policy during your
25 time as captain at the Miami Township Police

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1 Department governing the production of discovery to
2 the prosecutors?

3 MS. JEWELL: Objection.

4 MR. HERMAN: Objection.

5 MR. KAY: Objection, foundation,
6 asked and answered.

7 THE WITNESS: I don't recall.

8 BY MR. SHUKUR:

9 Q. And I've already asked you about the
10 Township's practice regarding the retention of
11 records. Do you recall any policy governing the
12 Township's retention of records during your time as
13 captain at the Miami Township Police Department?

14 MS. JEWELL: Objection.

15 MR. HERMAN: Objection.

16 THE WITNESS: Can you ask that
17 again?

18 BY MR. SHUKUR:

19 Q. All right. Remember we talked about
20 the duty to keep copies of initial and supplemental
21 reports at the Miami Township Police Department?

22 A. Yes.

23 Q. Okay. And we talked about the
24 department's practice regarding keeping the initial
25 and supplemental reports, correct?

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1 A. Yes.

2 Q. All right. Now, since we already
3 talked about the practice, I'm asking you do you
4 recall any policy governing the storage and
5 retention of initial and supplemental police
6 reports during your time as captain?

7 MS. JEWELL: Objection.

8 THE WITNESS: I'm certain there
9 was a policy, but I don't recall what it was.

10 BY MR. SHUKUR:

11 Q. Do you recall ever seeing a written
12 policy governing the storage and retention of
13 initial and supplemental police reports during your
14 time as captain?

15 A. I don't recall anything, no.

16 Q. We just discussed during your time as
17 captain. How about during your time as lieutenant,
18 do you recall ever seeing a written policy
19 governing the retention and storage of initial and
20 supplemental police reports?

21 A. During the time between when I became
22 lieutenant and the time when we became
23 internationally accredited, we did a lot of policy
24 making, and we eliminated policy and added policy
25 and changed policy. So I don't remember anything

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1 specific about what exists and what doesn't.

2 Q. All right. And thank you for that.

3 And so is it safe to say that you don't recall
4 seeing a written policy governing the storage and
5 retention of initial and supplemental reports
6 during your time at the Township Police Department
7 before you became captain?

8 MR. HERMAN: Objection.

9 MS. JEWELL: Objection.

10 BY MR. SHUKUR:

11 Q. You can answer.

12 A. I don't recall seeing it.

13 Q. You just said you don't recall seeing
14 it. Do you recall the department having an actual
15 policy governing the retention and storage of
16 initial and supplemental reports during your time
17 as lieutenant or during your time as captain?

18 A. I'm certain that there was one.

19 Q. All right. Do you recall the details
20 of it?

21 A. No.

22 Q. Okay. And you're certain that there
23 was one. Can you say for sure that one, in fact,
24 existed? Are you certain that one, in fact,
25 existed?

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1 MS. JEWELL: Objection. It's been
2 asked and answered numerous times.

3 MR. HERMAN: Objection.

4 BY MR. SHUKUR:

5 Q. You can answer.

6 A. Yes.

7 Q. Why are you so certain?

8 A. Because we were internationally
9 accredited.

10 Q. And are you certain that the policy
11 existed before you were accredited?

12 A. I'm certain that we created it during
13 that time.

14 MS. JEWELL: Do you understand his
15 question?

16 THE WITNESS: He's asking me if we
17 had, if --

18 BY MR. SHUKUR:

19 Q. So, let's say, so you were accredited
20 in 1994, correct?

21 A. Yes.

22 Q. All right. And forgive me if I'm being
23 unclear. You're free to ask for clarification if
24 you don't understand any of my questions.

25 Otherwise, I'm just going to assume that you

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1 understand.

2 A. Okay.

3 Q. Does that make sense?

4 A. Yeah.

5 Q. All right. So from '88, from about
6 1988 to 1991, do you recall an actual policy
7 existing governing the retention and storage of
8 initial and supplemental police reports?

9 A. Do I recall the policy?

10 Q. Yes.

11 A. No, I do not.

12 Q. All right. Do you know if detectives
13 or detective sergeants would ever take handwritten
14 notes during their investigations during your time
15 as captain?

16 MR. KAY: Objection, foundation.

17 THE WITNESS: Yes.

18 BY MR. SHUKUR:

19 Q. Okay. How do you know that?

20 A. Several officers, not just detectives,
21 had notepads that they wrote notes down about
22 investigations or crime scenes or traffic accidents
23 or whatever. I believe the detectives did the same
24 thing.

25 Q. All right. What, with these notepads,

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1 well, please describe these notepads.

2 A. It would be a small, maybe a
3 three-by-five notepad that they could scratch down
4 information so they would have it later to complete
5 their investigation.

6 Q. All right. And so officers would use
7 the notes from their notepad to help produce their
8 initial and supplemental reports; is that correct?

9 MS. JEWELL: Objection.

10 THE WITNESS: Yes.

11 BY MR. SHUKUR:

12 Q. All right. And after the officers
13 would type their reports using their notes from the
14 notepad, would they toss the notepad?

15 MR. HERMAN: Objection.

16 MS. JEWELL: Objection.

17 THE WITNESS: I have no idea.

18 BY MR. SHUKUR:

19 Q. Okay. And did you ever have an
20 occasion to see and, sorry, were each of these
21 officers provided, sorry, during your time as
22 captain were all of the patrol officers and
23 detectives provided these three-by-five inch
24 notepads?

25 MR. HERMAN: Objection.

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1 THE WITNESS: They were not
2 provided.

3 BY MR. SHUKUR:

4 Q. What do you mean?

5 A. We did, the department did not buy
6 their pads. They bought their own.

7 BY MR. SHUKUR:

8 Q. During your time at the Miami Township
9 Police Department did the police department ever
10 supply its detectives or patrol officers with
11 notepads?

12 A. Yes, but not ones I was referring to.

13 Q. Okay. What types of notepads would the
14 department provide?

15 A. Legal pads.

16 Q. Did you ever have an occasion to see
17 or, sorry. Here's my question, so during your time
18 at the Miami Township Police Department the
19 department made available legal pads to all
20 detectives and all patrol officers; is that
21 correct?

22 A. That's correct.

23 Q. Okay. During your time as lieutenant
24 and captain at the Miami Township Police Department
25 did you ever have the occasion of seeing scrap

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1 pieces of paper from either a legal pad or a
2 three-by-five inch notepad in the trash can?

3 A. I do not recall anything like that.

4 Q. Okay. During your time as captain and
5 lieutenant at the Miami Township Police Department
6 were there any policies governing the retention or
7 storage of notes written on the three-by-five inch
8 notepads or legal pads?

9 A. I don't recall anything like that.

10 Q. And earlier you said that during your
11 time as captain you had the occasion of seeing
12 detectives at the scenes of crimes; is that
13 correct?

14 A. Yes.

15 Q. Okay. Did you ever see a detective
16 write on a legal pad or a three-by-five inch
17 notepad during your time as captain at the Miami
18 Township Police Department?

19 A. Yes.

20 Q. Did you see this multiple times or just
21 one time?

22 A. Multiple.

23 Q. In your time as captain at the Miami
24 Township Police Department, did you ever have the
25 occasion of seeing a detective conduct an interview

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1 of a witness or an interrogation of a suspect?

2 A. Not that I recall.

3 Q. All right. During your time as captain
4 at the Miami Township Police Department, how did
5 you make sure that the detective sergeant wasn't
6 allowing the detectives to sort of run wild and
7 wasn't supervising the detectives at all?

8 MR. HERMAN: Objection.

9 MS. JEWELL: Objection.

10 THE WITNESS: I didn't directly
11 supervise the detective sergeant. And I, you know,
12 we were a very professional group. I don't think
13 that anybody was running rampant or doing anything,
14 you know, unprofessional.

15 BY MR. SHUKUR:

16 Q. Do you remember ever having a
17 conversation with the lieutenant during your time
18 as captain in which you discuss how the lieutenant
19 should go about supervising the detective sergeant?

20 A. I don't recall ever having that
21 conversation, no.

22 Q. Okay. Do you ever recall having a
23 conversation with the lieutenant during your time
24 as captain in which you discussed how the
25 lieutenant should make sure the detective sergeant

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1 was properly supervising the detectives?

2 A. I don't remember ever having that
3 conversation.

4 Q. Do you ever remember having a
5 conversation with the lieutenant during your time
6 as captain in which you discussed the department's
7 practices regarding photo lineups?

8 A. No.

9 Q. Did you ever recall having a
10 conversation with the lieutenant during your time
11 as captain regarding the department's policies
12 regarding turning over evidence and reports to
13 prosecutors?

14 A. No.

15 Q. All right. Do you recall having a
16 conversation with anybody at the department during
17 your time as captain regarding the policies,
18 practices, and turning over evidence and reports to
19 prosecutors?

20 A. I don't remember having a conversation
21 like that, no.

22 Q. Do you remember having a conversation
23 with anybody during your time as captain in which
24 you discuss with anybody the department's practices
25 in conducting photo lineups?

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1 A. No. I don't know anything about photo
2 lineups, so --

3 Q. Do you remember having a conversation
4 with the lieutenant during your time as captain in
5 which you discuss the Miami Township Department's
6 practices in storing and/or retaining initial
7 reports and supplemental reports?

8 A. No.

9 Q. Do you remember having a conversation
10 with anybody at the department during your time as
11 captain in which you discuss the department's
12 practices in storing and/or retaining initial
13 reports and supplemental reports?

14 A. I would have talked to the lady that
15 was making, that was writing the policy. And then
16 when the policy was created, then we would have
17 talked about it with the committee, but I don't
18 remember those conversations. It's a long time
19 ago, and I don't have any reason to remember that
20 stuff.

21 Q. I understand. I understand. Aside
22 from the conversation with the lady who we
23 discussed earlier about the department's policy in
24 storing and retaining initial and supplemental
25 reports, do you recall any other conversation with

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1 anybody else at the department during your time
2 your time as captain in which you discussed
3 department's policy or practice in retaining or
4 storing initial or supplemental reports?

5 A. I don't recall the conversation, no.

6 Q. Okay. Do you recall in addition, not
7 recalling the conversation, do you recall any
8 conversation of that type?

9 A. No. As I said, you know, we were in
10 the process of creating policy, and we had a
11 process that we were going through to create that.
12 And I would have had conversations with, you know,
13 with, you know, several people about a specific
14 policy, but I don't recall what those conversations
15 were or how they transpired or whether they ended
16 up even --

17 Q. All right. And that process that
18 you're referring to is the process for the
19 department to become accredited, correct?

20 A. Yes.

21 Q. Okay. And we've already discussed the
22 department becoming accredited in 1994, correct?

23 A. Yes.

24 Q. When did the department begin the
25 process to become accredited?

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1 A. It was before Chief Moore left. He
2 left in 1988, so we started that process before
3 that.

4 Q. All right. When did the lady whose job
5 it was to help produce these policies begin working
6 at the department; if you remember?

7 A. I don't recall when she started, but it
8 would have been after Chief Moore left.

9 Q. Do you recall if it was the late '80s
10 or early '90s?

11 A. I would say it was the late '80s.

12 Q. Do you remember Scott Moore having sort
13 of a reputation as a cowboy when he was a detective
14 at the Miami Township Police Department?

15 MR. KAY: Objection.

16 THE WITNESS: I don't recall
17 anything specific, no.

18 BY MR. SHUKUR:

19 Q. Do you recall anything generally?

20 MR. KAY: Objection, form. Asked
21 and answered.

22 BY MR. SHUKUR:

23 Q. You can answer.

24 A. I recall that I wasn't very fond of
25 him, so --

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1 Q. All right. You had reservations about
2 Moore joining the Miami Township Police Department,
3 correct?

4 A. Yes.

5 Q. Since you had reservations about Moore
6 joining the Miami Township Police Department, you
7 kind of kept a close eye on him when he first
8 joined the force; is that correct?

9 MR. KAY: Objection, form.

10 MS. JEWELL: Objection.

11 THE WITNESS: No, not really.

12 BY MR. SHUKUR:

13 Q. Not really?

14 A. No.

15 Q. All right. And when Moore first joined
16 the police department, did you pay any attention to
17 him at all in the performance of his duties or as
18 to check on how he was going about performing his
19 job?

20 A. He didn't, I don't recall him ever
21 actually being under my supervision. So in light
22 of that, I would say, no, I never really checked up
23 on him. I wasn't one to check up on someone that
24 wasn't, you know, in my charge, so --

25 Q. All right. When you were captain at

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1 the Miami Township Police Department Moore was a
2 detective, correct?

3 A. Yes.

4 Q. Okay. And so, you know, he was one of
5 your subordinates when he was a detective, correct?

6 A. Yes.

7 Q. Okay. And did you bear responsibility
8 for the performance of detectives when you were
9 captain at the Miami Township Police Department?

10 MR. KAY: Objection, form. Asked
11 and answered for the third time.

12 MS. JEWELL: Objection.

13 MR. HERMAN: Objection.

14 BY MR. SHUKUR:

15 Q. You can answer.

16 MS. JEWELL: This is the last time
17 that he's going to answer this question.

18 THE WITNESS: Ultimately I was
19 responsible for everybody except the police chief,
20 but I didn't get involved in the day-to-day
21 operations because things were running relatively
22 smoothly.

23 BY MR. SHUKUR:

24 Q. All right. All right. And do you
25 recall attending a meeting in which Rick Wolfe came

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1 to the Miami Township Police Department and
2 suggested that Dean Gillispie or Roger Gillispie
3 should be a suspect in a rape investigation?

4 A. No.

5 Q. And is your testimony that you never
6 attended a meeting in which Rick Wolfe suggested
7 Dean Gillispie or Roger Gillispie should be a
8 suspect in a rape investigation?

9 MS. JEWELL: Objection.

10 THE WITNESS: I don't recall ever
11 attending a meeting with Rick Wolfe.

12 BY MR. SHUKUR:

13 Q. And I'm just trying to see if you don't
14 recall or if you know for sure that the meeting
15 didn't happen?

16 A. The meeting may very well have
17 happened, but I wasn't there.

18 Q. Do you recall ever having any
19 interactions with Rick Wolfe after Rick Wolfe let
20 left the Miami Township Police Department?

21 MS. JEWELL: Objection.

22 THE WITNESS: No.

23 MR. HERMAN: Was your answer no?

24 THE WITNESS: No. Yes.

25 MR. SHUKUR: Okay.

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1 MR. HERMAN: Can we take a break?

2 MR. SHUKUR: Do you want to go
3 ahead and do lunch or do you want to power through?

4 MR. HERMAN: Can we go off the
5 record?

6 MR. SHUKUR: Yeah. We can go off
7 the record.

8 (WHEREUPON, a recess was taken.)

9 (WHEREUPON, Plaintiff's Exhibit
10 No. 1 was marked for identification.)

11 BY MR. SHUKUR:

12 Q. We're back on the record.

13 Mr. Scothorn, I'm handing you Plaintiff's Exhibit
14 1. There are four copies. The first composite, a
15 composite. Mr. Scothorn, have you, well, take a
16 moment to review Plaintiff's 1, and let me know
17 when you're finished.

18 A. Okay.

19 Q. All right. Have you ever seen
20 Plaintiff's 1 before?

21 A. I do not recall this, no.

22 Q. Have you ever, or during your time at
23 the Miami Township Police Department, did you ever
24 have an occasion of putting a composite together?

25 A. No, sir.

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1 Q. All right. During your time as
2 lieutenant or captain, do you remember or recall
3 ever discussing the Township's practices or
4 policies regarding composites?

5 A. I don't recall discussing that, no.

6 (WHEREUPON, Plaintiff's Exhibit
7 No. 2 was marked for identification.)

8 MS. JEWELL: Do you want that
9 marked as 1, is that what you said?

10 MR. SHUKUR: Yes.

11 MS. JEWELL: Objection. I'll make
12 that a little bit more legible.

13 BY MR. SHUKUR:

14 Q. All right. I'm now handing you
15 Plaintiff's Exhibit 2. Have you ever seen
16 Plaintiff's Exhibit 2? Take a minute to review it,
17 and let me know.

18 A. No, sir. I don't ever recall seeing
19 this before. I don't ever recall seeing this
20 before.

21 Q. All right. We're done with those.
22 Mr. Fritz, have you ever --

23 MS. JEWELL: This is Scothorn.

24 BY MR. SHUKUR:

25 Q. So many --

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1 A. Was that an intended insult?

2 Q. No. All right. Mr. Scothorn?

3 A. Yes.

4 Q. Have you ever been a part of the
5 faculty at a police academy?

6 A. Yes.

7 Q. Okay. What police academy?

8 A. Miami Township Police Academy.

9 Q. Who would, who were the participants in
10 the Miami Township Police Academy?

11 A. You mean faculty or students?

12 Q. Students.

13 A. Students would be a variety of people
14 that were sponsored by a law enforcement agency
15 somewhere in the area.

16 Q. And how long, well, sorry. When, when
17 were you a part of the faculty of the Miami
18 Township Police Academy?

19 A. From its inception, and I believe it
20 was 1981 until 1996.

21 Q. And describe your role at the Miami
22 Township Police Academy.

23 A. In the beginning I was an instructor in
24 certain areas. In the end I was a commander.

25 Q. All right. What were the areas in

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1 which you were an instructor in?

2 A. I was an instructor in domestic
3 violence. I had minor roles in some other subjects
4 that were fairly generic. I don't recall anything
5 more specific than that.

6 Q. Do you remember the generic areas?

7 A. No. I don't remember exactly what,
8 generally it was areas that did not require a
9 specific expertise.

10 Q. Do you have any examples of what those
11 areas might be or could be?

12 A. Report writing.

13 Q. Report writing?

14 A. Report writing.

15 Q. Describe your responsibilities as
16 commander.

17 A. I organize the academy. I submit it
18 for students. I kept the records for the academy
19 and submitted them to the state for inspection. I
20 was present when the state inspector came to
21 inspect to make sure everything was being done
22 properly.

23 Q. What records would you submit to the
24 state for inspection?

25 A. Attendance records, test scores, that

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1 kind of thing.

2 Q. Would every new law enforcement officer
3 in the Miami Township Police Department have to go
4 through the academy?

5 A. Yes.

6 Q. Would the academy produce its own
7 training materials?

8 A. No. There was a suggested curriculum
9 distributed by the state.

10 Q. All right. During your time at the
11 Miami Township Police Academy, the academy would
12 use the suggested curriculum disseminated by the
13 state; is that correct?

14 A. It was a basis. It basically said that
15 you had to cover these areas, and then you, we had
16 someone that, in a department or another department
17 or another police officer some place or in some
18 cases we brought in attorneys from outside the
19 department that could teach areas that would
20 require that particular expertise, and then we
21 would build on the base curriculum that the state
22 issued.

23 Q. How would you build on the base
24 curriculum?

25 A. Experience.

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1 Q. Would you, by we, you're referring to
2 yourself and who else?

3 A. Other, the parts of the faculty.

4 Q. During your time at the Miami Township
5 Police Academy in addition to using materials
6 produced by or disseminated by the state would you
7 produce your own written training materials?

8 A. Would I do that?

9 Q. Would the faculty --

10 A. As the instructor?

11 Q. Yes.

12 A. On occasion, not, it wasn't required.

13 Q. Now, the suggested curriculum
14 disseminated by the state, would this suggested
15 curriculum disseminated by the state in part
16 consist of handouts provided to the students?

17 A. In part.

18 Q. Would this suggested curriculum also
19 consist in part of teaching guides for the faculty?

20 A. I don't recall that they had any
21 requirements that you had to attend any kind of
22 training to be an instructor.

23 Q. I understand. And my question,
24 though --

25 A. Okay.

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1 Q. My question is with the suggested
2 curriculum handed out by the state or actually it
3 would be better if I just ask you this, here's my
4 question, please describe the suggested curriculum
5 disseminated by the state.

6 A. The curriculum was a book probably
7 about 3 and a half inches thick and each subject
8 that the state wanted taught in the academy had a
9 list of goals to achieve in that particular class.
10 And then there were suggestions about how to
11 achieve that, and then everyone that was going to
12 instruct in the class was given a copy of that, of
13 that part of the curriculum for them to review and
14 then they were allowed to improve on it or to add
15 to it.

16 Q. During your time at the Miami Township
17 Police Academy, it always, did it always use this
18 about 3 and a half inch thick book disseminated by
19 the state?

20 A. No.

21 Q. When did it not use the book?

22 A. Originally the book was much smaller,
23 still disseminated by the state, but it was a lot
24 smaller. It didn't have a lot of the details in
25 it, and then they changed their curriculum, I don't

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1 remember when.

2 Q. All right.

3 A. And so we, so we used the new
4 curriculum.

5 Q. And during your time at the Miami
6 Township Police Academy, the academy would always
7 use the suggested curriculum that came in the form
8 of this book disseminated by the state; is that
9 correct?

10 MR. HERMAN: Objection.

11 THE WITNESS: As a base.

12 BY MR. SHUKUR:

13 Q. As a base?

14 A. As a base.

15 Q. That's correct?

16 A. Yes.

17 Q. Okay. Do you know how the detectives
18 were trained during your time as lieutenant and
19 captain at the Miami Township Police Department?

20 MS. JEWELL: Objection.

21 THE WITNESS: I don't know. I
22 don't know of any training program that they gave
23 to detectives.

24 BY MR. SHUKUR:

25 Q. When you became captain, did you

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1 implement or advocate for any reforms within the
2 department?

3 MR. HERMAN: Objection.

4 THE WITNESS: Not that I recall.

5 BY MR. SHUKUR:

6 Q. And that's when you became a captain?

7 A. Yes.

8 Q. Now, during your time as captain, did
9 you, well, first, we already discussed one sort of
10 reform which is the implementation of computerized
11 storage of records, correct?

12 A. We discussed that, but that wasn't
13 my --

14 Q. I understand.

15 A. Yeah.

16 Q. But, you know, we discussed that
17 reform, right?

18 A. Yes.

19 Q. Now, were there any changes or reforms
20 spearheaded by you during your time as captain at
21 the Miami Township Police Department?

22 MR. HERMAN: Objection, form.

23 THE WITNESS: I don't recall any
24 reforms that I spearheaded, no.

25 BY MR. SHUKUR:

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1 Q. When you became captain, did you, I
2 believe the township was, I'm sorry. Here's my
3 question. When you became captain, did you believe
4 that the Miami Township Police Department was in
5 need of improvement in any area regarding its or
6 relating to its administrative functions or
7 investigatory functions?

8 MR. HERMAN: Objection, form,
9 foundation.

10 MS. JEWELL: Objection.

11 THE WITNESS: I, I don't know of
12 anything that I would have thought would, needed
13 reformed.

14 BY MR. SHUKUR:

15 Q. All right. Now, I inadvertently
16 brought up Fritz when we came back from the break.
17 Now, I'd like to purposefully bring him up. Do you
18 remember the circumstances surrounding Fritz'
19 departure from the Miami Township Police
20 Department?

21 A. Vaguely.

22 Q. What do you remember about the
23 circumstances surrounding Fritz' departure from the
24 Miami Township Police Department?

25 A. I remember that he was unhappy. I

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1 remember that we were unhappy with him. I remember
2 that we were pleased when he decided to leave.

3 Q. All right. Now, you say that we were
4 unhappy with him. Who are you saying, or who is
5 included within the we?

6 A. The police chief and I.

7 Q. Why were you and the police chief
8 unhappy with Fritz before his departure?

9 A. He was obviously unhappy being there,
10 at least that's the way we felt. We didn't feel
11 that he was, you know, wanted to be there. And we
12 weren't, we weren't interested in having him there
13 if he wasn't, if he wasn't going to be all in and
14 perform professionally.

15 Q. All right. After Fritz' departure,
16 were there any notable events regarding Fritz and
17 the Miami Township Police Department that you know
18 of?

19 MR. HERMAN: Objection.

20 THE WITNESS: I'm not sure what
21 you're asking.

22 BY MR. SHUKUR:

23 Q. Did you have any interactions with
24 Fritz after Fritz' departure from the Miami
25 Township Police Department?

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1 A. The only thing I recall was we were
2 disciplining an officer, and he came to the
3 disciplinary hearing to testify although he never
4 testified.

5 Q. Did you interact with Fritz at this
6 hearing?

7 A. No.

8 Q. Have you interacted with Fritz at all
9 since his departure from the Miami Township Police
10 Department?

11 A. No.

12 Q. All right. All right. And we touched
13 on this before, but let's dive a little more deeply
14 into it. What role did Fritz have in the
15 circumstances surrounding your termination from the
16 Miami Township Police Department?

17 MS. JEWELL: I'm going to object,
18 just continuing objection with any, you know, any
19 questions regarding his termination, but you can
20 answer any questions at this point.

21 THE WITNESS: I don't know of any
22 direct involvement that he had. I don't remember
23 him testifying at the hearing or being directly
24 involved in any of that.

25 BY MR. SHUKUR:

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1 Q. All right. And earlier you said that
2 Fritz had a role in getting people to tell lies
3 against you; is that correct?

4 A. That was what I was told, yes.

5 Q. What lies, well, first, according to
6 what you were told, who did Fritz encourage to lie?

7 A. I really don't know.

8 Q. According to what you were told, what
9 lies did Fritz encourage the people to tell, the
10 other person to tell?

11 A. My understanding was that he and a
12 couple of other individuals in the department
13 conspired to ask people if they had an opinion of
14 me or if they knew of anything bad that I did. I
15 don't know that to be a fact. That's just what I
16 was told.

17 Q. The lie that you heard Fritz encourage
18 people to tell was to ask if they had a bad opinion
19 of you?

20 A. A little more complicated than that,
21 but yes.

22 Q. All right. How is it more complicated
23 than that?

24 A. There was a lot being said. The
25 majority of it was untrue. My understanding was

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1 that a group of individuals were gathered together,
2 people, and trying to get them to speak out against
3 me and including contacting my ex-wife and talking
4 to her. I do not know who all was involved. I do
5 not care who was involved. It's long since gone.

6 Q. Earlier we discussed a consultant who
7 had the department implement its computerized
8 recordkeeping, correct?

9 A. Yes.

10 Q. Do you remember who this consultant
11 was?

12 A. No, I do not. I do remember that he
13 worked for Wright State University, but I don't
14 remember who he was.

15 Q. When did the Miami Township Police
16 Department implement computerized recordkeeping?

17 A. It was over a period of time. That
18 didn't happen on a specific date, but I would say
19 early '90s.

20 MR. SHUKUR: All right. I don't
21 have anything else for you.

22 CROSS-EXAMINATION

23 BY MR. HERMAN:

24 Q. Mr. Scothorn, my name is Chris Herman,
25 and I represent the Miami Township Police

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1 Department in this case.

2 A. Okay.

3 Q. I will not be as long as Mr. Shukur,
4 and I will tend to skip around a little bit because
5 he's covered some of things that I wanted to cover
6 with you, so --

7 A. Okay.

8 Q. Again, if you need to take a break, let
9 us know.

10 A. Okay.

11 Q. If you don't understand any of my
12 questions, then let me know that, okay?

13 A. Okay.

14 Q. Otherwise I'll just assume that you
15 understood the question.

16 A. I understand.

17 Q. I'm going to start by focusing on some
18 of the allegations in the complaint that were made
19 against you.

20 A. Yes.

21 Q. Have you had an opportunity since this
22 case was filed to actually read the complaint?

23 A. No.

24 Q. Okay. Have you, so you've never read
25 the complaint?

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1 A. Oh, this complaint?

2 Q. Yes.

3 A. Oh, yes. Early on.

4 (WHEREUPON, Mr. Deters exited the
5 room.)

6 BY MR. HERMAN:

7 Q. Okay. And I know there was a complaint
8 filed, and then there was an amended complaint
9 filed. Are you aware of that fact that there was
10 first a complaint and then an amended complaint
11 filed?

12 A. I'm not aware of the difference, no.

13 Q. All right. I would assume that you
14 read the complaint whether it was the amended
15 complaint or the first one a long time ago?

16 A. Yeah.

17 Q. Did you read it in preparation for your
18 deposition here today at all?

19 A. No.

20 Q. Okay. Part of the complaint talks
21 about a meeting that was attended by Rick Wolfe,
22 another GM employee, Steven Fritz, Gary Bailey,
23 Chief Angel, and possibly you. If I recall your
24 testimony earlier, you don't recall ever
25 participating or sitting in a meeting with Rick

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1 Wolfe in connection with the Roger Dean Gillispie
2 rape investigation; is that correct?

3 A. That's correct.

4 Q. If a meeting had taken place were you
5 ever told about what happened at that meeting?

6 MR. SHUKUR: Objection. You may
7 answer.

8 THE WITNESS: I don't recall ever
9 being told about it, no.

10 BY MR. HERMAN:

11 Q. There's another allegation in the
12 amended complaint that Chief Thomas Angel and you,
13 Captain Marvin Scothorn, directed Steven Fritz and
14 Gary Bailey to investigate Roger Dean Gillispie as
15 a suspect in the August 1988 rapes. Do you recall
16 ever having any conversation with Chief Angel about
17 who to assign and investigate the Roger Dean
18 Gillispie rapes?

19 A. I do not recall any conversation like
20 that.

21 Q. Do you recall any conversation that you
22 had with Steven Fritz about his involvement in the
23 Roger Dean Gillispie rape investigation?

24 A. I don't remember being involved in that
25 case at all.

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1 Q. Okay. And I assume that you're, I'll
2 assume what you're answer is going to the next one,
3 but I have to ask it anyway.

4 A. Sure.

5 Q. Do you recall any conversations that
6 you had with Gary Bailey about his investigation of
7 the Roger Dean Gillispie rape case?

8 A. No.

9 Q. And I think I know the answer, but I'll
10 ask anyway. You didn't participant in the
11 prosecution of Roger Dean Gillispie in these rapes
12 that occurred in 1988, correct?

13 A. No.

14 Q. You didn't show up for trial?

15 A. No.

16 (WHEREUPON, Mr. Deters entered the
17 room.)

18 BY MR. HERMAN:

19 Q. Did you speak with any of the witnesses
20 or anybody after the trials happened?

21 A. No.

22 Q. And you were promoted to captain in or
23 about 1990; is that correct?

24 A. That's correct.

25 Q. Do you remember what month it was?

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1 A. No.

2 Q. Okay. Did you have any, I guess,
3 general knowledge about the Roger Dean Gillispie
4 rape investigation when you were a lieutenant at
5 the police department?

6 A. No.

7 Q. Did you have any knowledge about the
8 Roger Dean Gillispie rape investigation when you
9 were captain with the police department?

10 A. No.

11 Q. Did you have any knowledge that Gary
12 Bailey was assigned as the detective to the Roger
13 Dean Gillispie rape investigation?

14 A. Not that I recall.

15 Q. Okay. At some point are you aware that
16 Gary Bailey was reassigned from the detective
17 section back to the road patrol section?

18 A. I don't recall that either.

19 Q. Okay. Are you aware of or did you have
20 anything to do with Scott Moore being assigned to
21 the Roger Dean Gillispie rape investigation?

22 A. No.

23 Q. Do you recall ever speaking to Scott
24 Moore about his investigation of the Roger Dean
25 Gillispie rape case?

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1 A. No.

2 Q. I understand that you were not a direct
3 supervisor of Scott Moore at the Miami Township
4 Police Department, correct?

5 A. That's correct.

6 Q. In 1990 you were a captain and
7 Detective Moore would have been, well, Scott Moore
8 would have been a detective or in the road patrol
9 section in that time period, correct?

10 A. Yes.

11 Q. Do you recall during your time working
12 with Scott Moore and not as it relates to the Roger
13 Dean Gillispie case having any conversations with
14 Scott Moore about the creation of photo spreads?

15 A. No.

16 Q. Do you recall ever having any
17 conversations with Scott Moore about how to
18 interview victims and identify suspects in any
19 criminal cases?

20 A. No.

21 Q. There's an allegation in the amended
22 complaint that says you approved of Scott Moore
23 making suggestive comments to victims in an effort
24 to get them to identify Roger Dean Gillispie as the
25 suspect in the rape investigations. Do you recall

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1 that at all?

2 A. No.

3 Q. Okay. Are you aware of any instances
4 of a detective or a patrol officer any other
5 employee of the Miami Township Police Department
6 making suggestive comments to victims or
7 eyewitnesses or any other people in an effort to
8 identify someone as a suspect?

9 A. No.

10 Q. Are you aware of anyone in the command
11 staff, whether it be any of the road patrol
12 sergeants, the detective sergeant, any lieutenants
13 or yourself condoning officers making suggestive
14 comments to victims in an effort to identify
15 someone as a suspect?

16 A. No.

17 Q. That same question but as it relates to
18 suggestive comments to eyewitnesses to identify --

19 A. No.

20 Q. Okay. If I recall correctly from your
21 testimony earlier you have no experience in the
22 creation of photo spreads during your tenure
23 working at the Miami Township Police Department,
24 correct?

25 A. That's correct.

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1 Q. Despite that fact are you aware of any
2 of your subordinates or any employees at the police
3 department engaging in some custom or practice to
4 create and use unduly suggestive photo spreads
5 during the investigation?

6 A. No.

7 Q. As a lieutenant and a captain with the
8 Miami Township Police Department would you have had
9 a duty to speak to an officer or to inform your
10 superiors if you ever learned that there was a
11 custom or a practice for officers at the Miami
12 Township Police Department to create or use unduly
13 suggestive photo spreads?

14 MS. JEWELL: Objection. Go ahead
15 and answer.

16 THE WITNESS: I'm sorry, can you
17 ask that again?

18 (WHEREUPON, the requested portion
19 of the record was read.)

20 THE WITNESS: Yes.

21 BY MR. HERMAN:

22 Q. Can you explain that?

23 A. If I had heard that there was any
24 unethical treatment or any unethical practices then
25 it would have been my duty to inform or take action

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1 myself.

2 Q. Okay. And do you recall ever having to
3 take any such action in your tenure at the Miami
4 Township Police Department?

5 A. No, I do not.

6 Q. Okay. Do you recall ever any other
7 command staff or any other officers having to take
8 action in that regard?

9 A. Not that I recall.

10 Q. It's alleged in the complaint that you
11 were part of a systematic process at Miami Township
12 of rigging criminal prosecutions. Are you aware of
13 any evidence or any cases before the Roger Dean
14 Gillispie case of any employees at the Miami
15 Township Police Department suppressing exculpatory
16 evidence?

17 A. Not that I'm aware.

18 Q. Okay. Are you aware of any of those
19 instances after the Roger Dean Gillispie case and
20 his conviction of accusations that any employees at
21 the Miami Township Police Department suppressed
22 exculpatory evidence?

23 A. Not that I'm aware.

24 Q. Are you aware of any cases before the
25 Roger Dean Gillispie case of any claims that the

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1 Miami Township Police Department used suggestive
2 photo spreads to identify suspects in cases?

3 A. I'm not aware of anything like that.

4 Q. And then after Mr. Gillispie's criminal
5 case and conviction, are you aware of any cases or
6 allegations that the Township Police Department
7 used suggestive photo spreads to identify suspects?

8 A. No. I'm not aware of anything like
9 that.

10 Q. Before the Roger Dean Gillispie case,
11 are you aware of any cases where the Miami Township
12 Police Department was accused of or an officer had
13 fabricated evidence in an investigation?

14 A. Not that I recall.

15 Q. What about after Mr. Gillispie's
16 criminal investigation and his subsequent
17 conviction?

18 A. Not that I recall.

19 Q. Before the case involving Roger Dean
20 Gillispie are you aware of any cases involving the
21 Miami Township Police Department destroying
22 evidence in connection with a criminal
23 investigation?

24 A. No.

25 Q. And what about after Roger Dean

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1 Gillispie's investigation and subsequent conviction
2 of any instances of an officer or employee
3 destroying evidence in an investigation?

4 A. No.

5 Q. Before the Roger Dean Gillispie
6 investigation, are you aware of any instances of
7 any files being removed from any initial reports or
8 supplemental reports before the Gillispie case?

9 A. No.

10 Q. What about after the Gillispie case,
11 are you aware of any instances of any cases where
12 files were removed from an investigative file or
13 supplemental file with the police department?

14 A. No.

15 Q. Before the Roger Dean Gillispie case,
16 can you recall any instance where command staff, so
17 I'm talking about sergeants, lieutenants, captain,
18 or the chief of police approved of officer or
19 employee misconduct in any way, shape, or form
20 instead of disciplining that officer for the
21 misconduct?

22 MR. SHUKUR: Objection.

23 THE WITNESS: I'm not sure I
24 understand the question.

25 BY MR. HERMAN:

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1 Q. So it's been alleged that, in the
2 complaint that as part of a systematic process of
3 the Miami Township Police Department rigging
4 criminal prosecutions that command staff would
5 approve of an officer or an employee's misconduct
6 rather than disciplining that officer or employee.
7 Are you aware of any instances where instead of
8 disciplining an officer or an employee for
9 misconduct that the command staff approved of that
10 misconduct?

11 A. No. I'm not aware of anything like
12 that.

13 Q. What would, in your experience, be the
14 appropriate response of the command staff if they
15 discovered that an employee or an officer had
16 violated a public, a practice, policy, procedure or
17 local law, state law, federal law, constitutional
18 right, anything of that nature?

19 MR. SHUKUR: Objection.

20 THE WITNESS: We initiate an
21 investigation. Depending on who was involved in
22 it, we would assign someone to investigate it, and
23 then it would be, we would follow procedure from
24 there.

25 BY MR. HERMAN:

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1 Q. So during the time period of 1988 to
2 1991, were there some procedures in place to
3 conduct such investigations if employee or if
4 employee misconduct was discovered during the
5 course and scope of an employee's business?

6 A. Yes.

7 Q. Okay. Do you specifically recall the
8 language or the nature of the process or procedure
9 at that time from 1988 to 19, I'm sorry, 1988 to
10 1990?

11 A. No. I do not recall specifics.

12 Q. But you're aware or you believe that
13 there was a policy or procedure in place?

14 A. I believe there was.

15 Q. Okay. You had testified earlier about
16 the accreditation process that the police
17 department was going through, correct?

18 A. Yes.

19 Q. And if I heard you correctly, you said
20 it began before 1988 when James Moore was the chief
21 of police, correct?

22 A. That's correct.

23 Q. And it continued all the way up until,
24 I believe, 1994 when the police department was
25 finally accredited; is that correct?

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1 A. That's correct.

2 Q. So during that six-year time period
3 were there policies and procedures in place at the
4 Miami Township Police Department regarding the
5 investigation of cases?

6 A. Yes.

7 Q. The retention of reports and
8 supplemental reports?

9 A. Yes.

10 Q. In the amended complaint there's
11 another allegation that you and other employees of
12 the Miami Township Police Department suppressed
13 and/or destroyed exculpatory and materially
14 favorable evidence, that being police reports,
15 audio recordings, alibi evidence, crime scene
16 evidence, and genetic material. At any point in
17 time during the pendency of the Roger Dean
18 Gillispie investigation did you ever come into
19 contact with or did you know about any audio
20 recordings in the case?

21 A. I did not.

22 Q. Did you know about any alibi evidence
23 in the case?

24 A. I did not.

25 Q. Were you aware of any crime scene

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1 evidence in the case?

2 A. I am not.

3 Q. Were you aware of any materials that
4 may have had exculpatory or genetic material on
5 them?

6 A. I'm not aware of any of that.

7 Q. Are you aware of any other officers at
8 the department destroying or suppressing any of
9 that evidence as alleged in the complaint?

10 A. I'm not aware of any officers
11 destroying evidence on any case.

12 Q. And when you say any case, you've been,
13 you have been at the Miami Township Police
14 Department for the better part of 26 years?

15 A. Yes.

16 Q. Okay. Is it fair to say that when this
17 case was filed, and you were named as a defendant,
18 this is the first time that you had heard that
19 allegation being made against you, the other
20 officers, and the Miami Township Police Department?

21 A. That's correct.

22 Q. I want to talk to you a little bit now
23 about the Township's, I'll call it the old paper
24 filing system. And you shared with us that
25 officers would, and I'm paraphrasing, correct me if

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1 I'm wrong or mistake anything, that an officer
2 would prepare an initial report, correct?

3 A. Correct.

4 Q. And it would be a handwritten report?

5 A. Yes.

6 Q. And that would be given to someone in
7 the, I think you said that the filing cabinet was
8 in the evidence room?

9 A. It was in the record --

10 Q. In the records room?

11 A. In the records section in the property
12 room, yes.

13 Q. In the property room?

14 A. Yes.

15 Q. Okay. So the officer would hand the
16 handwritten report to someone in the property room,
17 correct?

18 A. Yes.

19 Q. For a period of time you were the
20 supervisor over the dispatch center and the records
21 section, correct?

22 A. Yes?

23 Q. Is it safe then to say that you were
24 also supervising how police reports were retained
25 at the department under your tenure?

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1 MS. JEWELL: Objection.

2 THE WITNESS: We had a system that
3 preceded me, and we didn't change it.

4 BY MR. HERMAN:

5 Q. Okay. So if an officer prepares a
6 report, who did they, and we're talking about
7 handwritten report --

8 A. Yes.

9 Q. -- procedure at that time, an officer
10 prepares a handwritten report. And who does he or
11 she give that to then in the property room? Would
12 it be one of a number of people?

13 A. It could have been one of a number of
14 people. There was four people working in that
15 section.

16 Q. Did they have a specific title? And I
17 know that you told us that they were civilians/
18 what specifically were they called?

19 A. Records clerks.

20 Q. Records clerks, okay. And there was a
21 supervisor over the records clerks, correct?

22 A. Initially there was a civilian
23 supervisor. Eventually we assigned a sergeant to
24 do that, but --

25 Q. Do you recall when that transition took

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1 place from a civilian supervisor over the records
2 clerks to an active sergeant who was an officer
3 with the Miami Township Police Department?

4 A. No, I really don't recall.

5 Q. Okay. Then can you tell me then the
6 process? That's handed to a records clerk, and
7 then the records clerk is responsible for taking
8 that initial report and putting it in a file that's
9 marked with the report year and the report number,
10 correct?

11 A. That's correct.

12 Q. Is there any sort of supervision over
13 that records clerk in regards to whether they are
14 placing it in the correct file with that file
15 number?

16 A. I would say that there, there was
17 actually a supervisor, you know, in the records
18 section. I don't recall anything coming up missing
19 or coming up misfiled.

20 Q. Okay. If a detective then prepared a
21 supplemental report, and we're still talking about
22 the old handwritten report recordkeeping, would
23 that detective give their supplemental report to a
24 record clerk who would then file it with the
25 appropriate report number?

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1 A. Yes.

2 Q. Do you recall any instances, would
3 detectives sort of skip over or bypass the records
4 clerk and just file their supplemental report in
5 the filing cabinet by themselves?

6 A. They didn't have access to it.

7 Q. Okay. Who had access to the, I think
8 you said the property room, where this filing
9 cabinet was?

10 A. Yes. Records clerks, and then I had
11 access to it, and the police chief had access to
12 it.

13 Q. Okay. Is there a reason that a limited
14 amount of people had access to the property room?

15 A. You limit the amount of people so that
16 things don't get lost.

17 Q. Okay. What could possibly get lost?

18 A. If, for example, an officer got
19 involved in something on the street that involved
20 an earlier case, and he decided that he wanted to
21 read the original report, and he had access to go
22 in and pull the original report, there's no
23 guarantee that it will get filed properly again.
24 So you don't give them access to it. If they need
25 it, they can request it. And they can get a copy

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1 of it, and then the original goes back in the file.

2 Q. And that was going to be my next
3 question. If an officer or a detective or anybody
4 else at the police department who was investigating
5 a case wanted a copy of that file, they would have
6 to go to the records clerk or you or the chief of
7 police and request that file?

8 A. That's correct.

9 MS. JEWELL: Objection.

10 BY MR. HERMAN:

11 Q. Okay. I think you told us that you
12 don't recall an instance of a report being misfiled
13 in that filing cabinet, correct?

14 A. I don't recall any instances where
15 anything was misfiled.

16 Q. But that's not to say it's not possible
17 that given this system that we had in place where a
18 human being had to take the report, look at the
19 report number, and put it into a folder that was
20 specifically assigned to that report number, that
21 it, that it's possible maybe an initial report or a
22 supplemental report if it was pulled out could be
23 misplaced?

24 MR. SHUKUR: Objection.

25 THE WITNESS: It's possible.

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1 MR. HERMAN: Okay.

2 MR. SHUKUR: And the objection is
3 as to form of the last question.

4 BY MR. HERMAN:

5 Q. You never served as a detective,
6 correct?

7 A. Never did.

8 Q. Is it fair to say then that since you
9 never served as a detective you don't have any
10 experience with respect to a practice or a
11 procedure of writing supplemental reports where a
12 detective has eliminated somebody as a suspect in a
13 case, correct?

14 A. I have written supplemental reports for
15 different cases. I never worked as a detective. I
16 don't fully understand what all exactly what their
17 procedures were to deal with the paperwork, but I,
18 I don't know of, I don't know of any instance that
19 a detective eliminated a suspect and that did get,
20 you know, processed and filed away properly.

21 Q. We've talked about the old paper
22 recordkeeping with respect to the police reports
23 and that type of thing. And then you said at some
24 point there was a transition to a computer based
25 recordkeeping and report writing protocol at the

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1 police department, correct?

2 A. Correct.

3 Q. Do you remember specifically when the
4 department began to make the transition from a
5 handwritten paper-based report writing system to a
6 computer generated, type it in and save it in the
7 computer report of writing and recordkeeping?

8 A. I remember that we actually got the
9 computers in 1991. There was a lot of work to
10 create the format of how we were going to record
11 the reports. We worked on that for a long time,
12 and we had a consultant from Wright State and, but
13 during that time and even after we initially
14 started doing stuff on the computer, we still, we
15 were doing duplication of effort. We did hardcopy
16 and computer.

17 Q. Have you had an opportunity to review
18 any of the police reports that were prepared and
19 generated in connection with the Roger Dean
20 Gillispie rape investigation?

21 A. No.

22 Q. Okay. So if I was to tell you that
23 Scott Moore was assigned to this case in June of
24 1990, and he, his first report was computer based,
25 okay, in 1990, that, you told us that computers

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1 came to the department in 1991, correct?

2 A. That's what I recall, yes.

3 Q. Okay. But Scott Moore has a computer
4 generated report in June of 1990. Is there some
5 other way that he would have generated that report
6 despite your recollection that computers didn't
7 come until 1991 or maybe you're mistaken about the
8 time when computers were starting to be used?

9 MR. SHUKUR: Objection to form.

10 THE WITNESS: I'm not sure
11 entirely about when the computers actually started,
12 and I don't know of anyone that was using a
13 personal computer to do their own work, so if you
14 say he generated a report in 1990, then I obviously
15 recall, I don't recall properly when the computers
16 actually there were.

17 BY MR. HERMAN:

18 Q. If he generated a computer report in
19 1990, then there must have been a computer there
20 for him to generate it on.

21 MR. SHUKUR: Objection to form.
22 It calls for speculation as well.

23 THE WITNESS: Yes.

24 MR. HERMAN: I think that's all
25 the questions I have at this time.

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1 CROSS-EXAMINATION

2 BY MR. KAY:

3 Q. Marvin, just a few questions for you.

4 A. Sure.

5 Q. If you recall earlier in your
6 deposition you were provided with certain names of
7 officers and then the question was asked of you,
8 what did you think about their performance as an
9 officer? Do you recall those line of questions?

10 A. Yes.

11 Q. Okay. One person you were not asked
12 about was Gary Bailey.

13 A. Okay.

14 Q. With that said, as you sit here today,
15 do you have any thoughts as far as Mr. Bailey and
16 his performance as an officer at the department
17 when you were there?

18 A. I don't recall a lot about Gary Bailey.
19 I do know his department, I know he was with, I'm
20 pretty sure he was with Miami County Sheriff's
21 Office before he came to see us, but I don't recall
22 a lot about him period.

23 Q. That's fine. Do you have any
24 recollections of the circumstances, if any, which
25 may have led from him being transferred from the

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1 Detective Bureau back to the road division?

2 A. No, I do not.

3 Q. Okay. I think yesterday, Marvin, Tim
4 Wilson had testified that when Fritz left, and I'm
5 sorry, did he, he resigned, is that --

6 A. Yes, he did.

7 Q. Okay. He had testified that when Fritz
8 resigned that, I think he said two days later Fritz
9 came back trying to get his job back, okay. Do you
10 have any recollection regarding any events related
11 to that?

12 MR. SHUKUR: Objection to form.

13 THE WITNESS: Not entirely
14 accurate. He turned in his two-week resignation.
15 We immediately found someone to replace him, which
16 was Tim Wilson.

17 BY MR. KAY:

18 Q. Tim Wilson.

19 A. Tim and I had a history. He was, I
20 knew he was interested, and so I suggested to the
21 chief that we talk to him. We ultimately decided
22 to hire him. Two days before Fritz' last day he
23 came and wanted to know, he said he had changed his
24 mind, that he was going to stay on. And we told
25 him that we had already replaced him.

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1 Q. Okay. As far as when Fritz resigned
2 and was leaving department, did you have any
3 involvement of any nature as far as the assignment
4 of new current matters being investigated within
5 the Detective Bureau?

6 A. No.

7 Q. Okay. Now, what we've learned in this
8 lawsuit is that after Steve Fritz left the
9 department he went to work for a private
10 investigating firm; do you have any knowledge of
11 that?

12 A. No, I do not.

13 MR. SHUKUR: Objection to form.

14 BY MR. KAY:

15 Q. Do you have any knowledge of Steve
16 Fritz specifically being retained by the defense
17 team representing Roger Gillispie?

18 A. I do not.

19 Q. Okay. Is this the first time that
20 you've heard of that fact?

21 A. I read somewhere in the paperwork that
22 I had that he was involved in it, but I did not
23 know to what extent.

24 Q. Okay. In your experience as an
25 officer, how long, 26 years?

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1 A. 26 years.

2 Q. Okay. Are you aware of a situation
3 where a detective resigned from a police department
4 and within months was retained by a defense team to
5 serve as a private investigator for an individual
6 who was under investigation by the same department
7 that he used to work for; have you ever heard of
8 that circumstances ever occurring?

9 A. I've never heard of that circumstance.
10 It sounds unethical to me.

11 Q. Certainly does, doesn't it?

12 MR. SHUKUR: Objection to form.

13 BY MR. KAY:

14 Q. Marvin, were you present for any reason
15 when Roger Gillispie was arrested?

16 A. I was not.

17 MR. KAY: That's all I have.

18 Thank you.

19 MR. DETERS: Marvin, my name is
20 Jon Deters. My office represents Defendants Angel,
21 DiPietro, and Gray. I don't have any questions for
22 you at this time. I just wanted to thank you for
23 coming today.

24 THE WITNESS: Okay.

25 MS. JEWELL: You good? I don't

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1 have any questions.

2 MR. SHUKUR: All right. I have a
3 few follow-up questions.

4 RECROSS-EXAMINATION

5 BY MR. SHUKUR:

6 Q. Mr. Scothorn, during your time as
7 lieutenant did you ever suggest that somebody be
8 investigated as a suspect in a matter investigated
9 by the Miami Township Police Department?

10 A. No.

11 Q. During your time as captain did you
12 ever suggest that anybody be investigated as a
13 suspect in the matter investigated by the Miami
14 Township Police Department?

15 A. I don't know.

16 MR. HERMAN: Objection.

17 THE WITNESS: I don't know of any
18 incident where I would have suggested that, no.

19 BY MR. SHUKUR:

20 Q. And are you saying for sure that you
21 did not suggest anybody be investigated as a
22 suspect or are you saying that you don't know
23 whether or not you did?

24 MS. JEWELL: Objection.

25 THE WITNESS: I can't imagine the

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1 circumstances when I would do that.

2 BY MR. SHUKUR:

3 Q. Okay. And Miami Township, the Miami
4 Township Police Department had to develop written
5 policies and procedures to get its accreditation,
6 correct?

7 A. Yes.

8 Q. All right. And each time the township
9 or Miami Township Police Department created a new
10 policy or procedure it put it in writing, correct?

11 A. Yes.

12 Q. All right. Now, let's talk about the
13 property room that stored the initial and
14 supplemental reports. Was this property room
15 locked at all times?

16 A. Except when it was being occupied.

17 Q. When would it be occupied?

18 A. During regular business hours.

19 Q. Who all had a key to the office?

20 MS. JEWELL: Objection.

21 BY MR. SHUKUR:

22 Q. If you know?

23 A. The record staff, myself, and the
24 police chief.

25 Q. Did you have custodial staff at the

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1 police department?

2 A. Like a janitor?

3 Q. Yes.

4 A. Yes.

5 Q. All right. Did the janitor have a key
6 to the records room?

7 A. No.

8 Q. All right. How would the records room
9 get cleaned?

10 A. The records clerks cleaned it.

11 Q. All right. All right. And if
12 detective, well, first, 1988, what was the Miami
13 Township Police Department's practice regarding
14 when an initial report was submitted to the
15 property room?

16 A. To my knowledge there was no time limit
17 scheduled for it, just that when you finished your
18 initial investigation, it was to be submitted.

19 Q. Did you ever check to make sure a
20 detective or patrol officer submitted a report to
21 the property room when they finished their initial
22 investigation?

23 A. I don't remember ever specifically
24 checking, no.

25 Q. Were the Miami Township Police

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1 Department, law enforcement officers required to
2 submit the initial reports and the supplemental
3 reports all at once or submit the initial report
4 first and then the supplemental reports?

5 MS. JEWELL: Objection.

6 THE WITNESS: They would submit
7 the original report and then further investigation,
8 as it proceeded, they would submit supplemental
9 reports.

10 BY MR. SHUKUR:

11 Q. All right. And what was the practice
12 regarding when the officers were required or
13 actually did submit the supplemental reports to the
14 property room?

15 MR. HERMAN: Objection.

16 THE WITNESS: The patrol officers
17 or detectives?

18 BY MR. SHUKUR:

19 Q. First, we'll say patrol officers.

20 A. Patrol officers were required to submit
21 their initial report by the end of their shift
22 unless they received permission from their
23 supervisor that they could hang onto it for an
24 extra day to finish it up. As far as supplemental
25 reports, the supplemental reports were supposed to

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1 be turned in as they were completed, depending on
2 the subject of the report, and then they would
3 just, they would be submitted, and then they would
4 have the numbers, and they would go to records, and
5 then records would file them appropriately.

6 Q. And what about the detectives?

7 A. Same thing with the detectives.

8 Q. Okay. So detectives were supposed to
9 submit supplemental reports to the property room as
10 the supplemental reports were completed, correct?

11 A. That's correct.

12 Q. All right. Now, do you know of any
13 mechanisms in place during your time as lieutenant
14 or captain that made sure that detectives submitted
15 their supplemental reports as they completed them?

16 A. I'm not sure what you're asking.

17 Q. How did the department, if you know,
18 how did the Miami Township Police Department make
19 sure that detectives submitted their supplemental
20 reports as they completed them during your time as
21 captain?

22 A. We didn't, we didn't track them. We
23 just counted on them to turn the paperwork in
24 properly. It made sense to, they could easily keep
25 a copy, retain a copy of, if they needed it, but

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1 the original needed to go to the property room to
2 be filed.

3 Q. After a detective submitted a
4 supplemental report to the property room, could the
5 detective ever check out the original supplemental
6 report?

7 A. Yes.

8 Q. Okay. Did the property room, sorry,
9 here's my question, when the detective checked out
10 a, during your, sorry. Here's my question, during
11 your time as captain did the detective or a
12 detective who checked out a supplemental report, an
13 original supplemental report from the property room
14 have to sign any documentation memorializing the
15 detective checking out the supplemental report?

16 A. I may have misled you with your last
17 question. They didn't actually check out the
18 report. They could request a copy of it, and then
19 they would be given a copy and the original one
20 back in the file.

21 Q. So under no circumstance could the
22 detective check out an original of a supplemental
23 report once the report was submitted to the
24 property room; is that correct?

25 A. There would be no need to. You could

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1 get a copy of it. If you could get a copy of it,
2 you wouldn't need the original.

3 Q. I understand. And I understand your
4 answer was there was no need to.

5 A. Okay.

6 Q. And so I just want to know if it ever
7 needlessly happened, all right? So under no
8 circumstance, well, you don't know of an instance
9 in which an original supplemental report was taken
10 out of the property room during your time as
11 captain at the Miami Township Police Department; is
12 that correct?

13 A. That's correct. I have no knowledge of
14 any time that that occurred.

15 Q. Okay. When a detective, is it the case
16 that each time a detective, and let's say during
17 your time as lieutenant, was it the case that each
18 time a detective wanted to see a copy of her or his
19 supplemental report they would only be given a copy
20 or would they sometimes be allowed to see the
21 original, you know, and not get a copy?

22 MS. JEWELL: Objection.

23 MR. HERMAN: Objection.

24 BY MR. SHUKUR:

25 Q. You can answer.

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1 A. I can see an incident where he wanted
2 to hold the copy while read something from it and
3 then hand it back, and he never actually got a copy
4 of it, but he wouldn't have been allowed to take it
5 from the room.

6 Q. So a detective could review an original
7 of or an original supplemental report in the
8 property room but could not take the original
9 report out of the property room; is that correct?

10 A. That's correct.

11 Q. Now, this property room, you remember
12 how the property room looked during your time as
13 lieutenant and captain, correct?

14 A. Yes.

15 Q. This property room, did it have any
16 chairs?

17 A. There was a small desk and a chair.

18 Q. There was a small desk and a chair.
19 Who sat at the desk?

20 A. Different people. It depends on what
21 they were doing that particular day. It could have
22 been, it could have been any one of the records
23 people.

24 Q. All right. And if the detective wanted
25 to review a supplemental report and said there was

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1 no need to make a copy, could the detective sit at
2 the desk and review the supplemental report?

3 A. I guess it's possible, but I don't know
4 that that ever occurred.

5 Q. Okay. Did you ever see, sorry. Here's
6 my question, did you ever have an occasion to see
7 more than one law enforcement officer in the
8 property room at one time, so two detectives, two
9 patrol officers, whatever?

10 A. They weren't suppose to be in there at
11 all. If I saw them there, I would run them out.

12 Q. Fair enough. So I want to impact what
13 you just said. So if a detective went to the
14 property room, asked for her or his original
15 supplemental report to review really quickly, and
16 the clerk gave the detective a copy of their
17 original supplemental report, and they were
18 reviewing it in front of the clerk, and you came
19 in, you would kick the detective out?

20 A. That's correct.

21 Q. All right. Did the property room,
22 sorry. Here's my question, during your time as
23 lieutenant, did the property room memorialize
24 requests for copies of initial or supplemental
25 reports?

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1 A. I don't understand the question.

2 Q. I'm trying. During your time as
3 lieutenant, did the property room memorialize or
4 document in any way an instance of a detective or
5 patrol officer requesting an initial or
6 supplemental report, was there a log or anything
7 like that --

8 A. Was there a log of who requested
9 reports?

10 Q. Yes.

11 A. No.

12 Q. All right. And earlier you said you
13 didn't know of a circumstance in which a detective
14 eliminating a suspect didn't get filed away and
15 stored properly. What do you mean by filed away
16 and stored properly?

17 A. It would have been filed with the rest
18 of the report and filed appropriately.

19 Q. And by it, what do you mean?

20 A. A report, a supplement.

21 Q. By the supplement you mean supplement
22 explaining that a suspect has been eliminated; is
23 that correct?

24 A. If the detective was following a
25 suspect in a case, and he eliminated, he would be

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1 required to do a supplemental report. And that
2 supplemental report would be filed with the
3 original.

4 Q. During your time as lieutenant how did
5 you make sure that original supplemental reports
6 never left the property room?

7 A. I didn't directly. I counted on the
8 employees there to make sure that they followed
9 procedures.

10 Q. During your time as lieutenant and
11 captain, what safeguards were there in place to
12 ensure that original, initial, or supplemental
13 reports didn't leave the property room?

14 A. It was, it was our policy that they
15 didn't leave, and the records people were pretty
16 good about following procedures.

17 MR. SHUKUR: I have nothing else.

18 MR. HERMAN: I have a few more
19 questions.

20 RECROSS-EXAMINATION

21 BY MR. HERMAN:

22 Q. Omavi was asking you questions about
23 officers or detectives getting copies of original
24 and supplemental reports from the property room.
25 My first question is, well, I'm sorry. Let me back

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1 up a little bit further than that. We were talking
2 about when you were being asked questions about the
3 timing of when a patrol officer submits his initial
4 report and the timing of when a detective or any
5 other officer submits their supplemental report; do
6 you recall those questions and your answers?

7 A. Yes.

8 Q. Was there any differentiation in that
9 timing as it relates to the paper-based
10 recordkeeping at the department versus the
11 computer-base recordkeeping at the depend?

12 A. Not that I'm aware.

13 Q. And, again, the initial reporting
14 officer is to submit, was to submit their initial
15 report at the close of their shift unless a
16 supervisor gave them some extra time do that,
17 correct?

18 A. Correct.

19 Q. And supplemental reports were submitted
20 upon their completion?

21 A. Correct.

22 Q. Okay. When the department transitioned
23 to the computer based recordkeeping including
24 preparing initial reports and supplemental reports,
25 was there then a need at that point for a police

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1 officer or detective to hand a copy of their
2 initial or supplemental report to an evidence room
3 or a property room clerk to keep in this filing
4 cabinet?

5 A. Once they, once we started doing things
6 on computer, then, once they finished it, and they
7 completed it, then they were downloaded into the
8 hard drive of the computer, they printed out a copy
9 of the report and submitted copy of the report to
10 the supervisor for the sheriffs, but the initial
11 report there was on data was, went to the record
12 section.

13 Q. Okay. So there was no physically
14 handing reports to somebody to then file, correct,
15 when we started, when the township Started using
16 the computer based --

17 MR. SHUKUR: Objection to form.

18 THE WITNESS: Through my tenure
19 there, they always submitted some kind of paperwork
20 even if it was just a printout of the report.

21 (WHEREUPON, Mr. Deters exited the
22 room.)

23 BY MR. HERMAN:

24 Q. Okay. But there was always a copy, and
25 I don't know if we want to call it an original or a

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1 copy of that report in the hard drive or database
2 that was maintained at the Township, correct?

3 A. Correct.

4 Q. Okay. Did Scott Moore have a key to
5 the property room in 1988?

6 A. No.

7 Q. Did he have a key to the property room
8 in 1989?

9 A. No.

10 Q. Did he have a key to the property room
11 in 1990?

12 A. No.

13 Q. Did he have a key to the property room
14 in 1991?

15 A. No.

16 Q. In your time as a lieutenant with the
17 Miami Township Police Department and a captain
18 overseeing the recordkeeping department or
19 recordkeeping section, do you recall any instance
20 under the paper-based recordkeeping system of an
21 original initial report being removed from the file
22 cabinet?

23 A. No.

24 Q. Do you recall any instance under that
25 paper-based recordkeeping system of an original

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1 supplemental report being removed from the filing
2 cabinet?

3 A. No.

4 MR. HERMAN: That's all the
5 questions I have. Thank you.

6 MS. JEWELL: I don't have any
7 questions.

8 RECROSS-EXAMINATION

9 BY MR. SHUKUR:

10 Q. When James Moore was chief of the Miami
11 Township Police Department, he had a key to the
12 property room, correct?

13 A. Yes.

14 MR. SHUKUR: All right. That's
15 all I have.

16 MS. JEWELL: You have the right to
17 read your deposition or waive. I recommend that
18 you read it.

19 THE WITNESS: I will.

20 (WHEREUPON, Mr. Deters entered the
21 room.)

22 MS. JEWELL: He will read.

23 THE WITNESS: I will read it.

24 MR. SHUKUR: Mr. Scothorn, it was
25 a pleasure meeting you.

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1 THE WITNESS: Oh, nice meeting
2 you, sir.

3 (WHEREUPON, deposition concluded
4 at 2:58 p.m.)

5 * * * * *

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8 _____
MARVIN SCOTHORN

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C E R T I F I C A T E

STATE OF OHIO
SS.
COUNTY OF MONTGOMERY

I, Jamie S. Hurley, the undersigned, a Court Reporter, and Notary Public within and for the State of Ohio, do hereby certify that before the giving of aforesaid deposition said MARVIN SCOTHORN, was by me first duly sworn to state the truth, the whole truth, and nothing but the truth; that the foregoing is the deposition given at said time and place by said MARVIN SCOTHORN; that said deposition was taken in stenotypy by the court reporter and transcribed into typewriting under her supervision; that said transcribed deposition was submitted to the witness for his examination; the court reporter was neither a relative of nor attorney for any of the parties to this case nor relative of nor employee for any of the counsel; neither the court reporter nor the affiliated court reporting firm has a financial interest under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I hereunto set my hand and official seal of office this 6th day of February, 2019.



JAMIE S. HURLEY
Notary Public, State of Ohio
My Commission Expires 6-28-20



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